DEBATES IN CONGRESS.

PART IV. OF VOL. X.

After adverting to those facts which clearly show that produce brings about the average price that it has done for the past five years, what becomes of the allegation that it has fallen from 25 to 50 per cent., or, to use the language of one of the memorials from Northumberland county, "the farmer and mechanic have not only been threatened by the aspect of distress in which the commercial class of our citizens has been involved, but a diminution in the value of their products of 50 per cent. or more, has taken place?" &c.

When this sentence was penned, there may have been a temporary depression in the market; for those honorable, intelligent, high-minded men who signed that memorial, and with whom I have been intimately acquainted for twenty years, would not place their names to a paper which they did not believe to be correct; but I am happy to find that their forebodings of ruin have not been realized, and that the prospects promised to the farmers, at the housing of an abundant havest, have not been blighted, but that they can and do obtain a fair and adequate price as the reward of their industry.

With regard to the assertion made by the friends of the bank in Lycoming county, that "hundreds of citizens are thrown out of employment," I beg leave to read an extract of a letter received a few days since from a highly respectable business man in that county. It reads thus:

"Mr. Webster stated that the memorials from Muncy set forth 'that great distress and scarcity of money prevailed in this part of the country; that the price of produce, of all kinds, had fallen one-fourth; that hundreds of our citizens were thrown out of employ! and that times, instead of becoming better, appeared to be going from bad to worse.' These statements were so gross and palpably false, that every person cried out, shame; and even the bank men almost blushed when they were pointed out to them. The facts are the very contrary. The prices of produce were, at that time, as good as they were a year ago. Wheat was selling at near $1 00; rye, 56 and 62½ cents; oats, 31 and 33; corn, 50, &c.; and some of those men who signed these memorials were selling flour at $5 50 per barrel; and as for our citizens being thrown out of employment, there is not the semblance of truth in it, as the whole neighborhood can testify. I do assure you that it is false, and I ought to know, having had hands employed all winter; and I know that any person who wished to be employed during the winter, was not at a loss amongst the farmers. Such gross exaggerations have done the bank party more injury than all the efforts of their opponents."

As great pains have been taken by the advocates of the mammoth bank to induce the farmers, the merchants, the manufacturers, and, in fact, every class of the community, to believe that they were ruined and undone beyond redemption, and that nothing short of the downfall of Jackson and his administration could save the country from bankruptcy, and the people from utter destruction, I will read an extract from a paper, which the men of all parties, alias, the opposition, will admit to be good authority, as it never has been suspected of any particular friendship for the administration. I allude to Bicknell's Reporter, printed in Philadelphia. On the 9th instant, it uses the following language:

"THE TIMES.—While the excitement continues in relation to the Bank of the United States, the public deposites, and the currency of the country, we must be expected, from week to week, to say a word as to the times, with regard to the money market, and the condition of the business generally. It cannot be questioned that the money market is easier at this moment than it was sixty days ago. We may mention some facts in proof. The Pennsylvania loan of $726,554 44, which, from a pressure in the money market, Messrs. S. & M. Allen were unable to pay, has since that period been taken by another house in this city. A Baltimore loan for a large amount has also been taken on favorable terms. We have heard of no failure for any considerable amount, either in Philadelphia, Boston, or New York within the last thirty days. The notes of our best houses are more readily discounted in bank, and paper that sixty days ago flooded the market and was offered at two per cent. a month, had disappeared from the brokers's change. In short, the shock has in a great measure gone by—the storm has spent its fury, and there is comparatively a calm in the money market. We do not mean to say that money is more abundant, or that good paper is readily discounted at the usual and legal rate. Far from it. We believe there is as great a scarcity as ever, but most of those who were in delicate circumstances, who were not prepared to stand a sudden and unexpected crisis, have gone by the board, while others have contracted their business, gathered up their strength, and paused until the panic has subsided, and the sunshine of prosperity and enterprise bursts forth again.

"The Western business, too, that is, the business with the West, has been unusually brisk the present season. A great number of merchants have visited the Atlantic cities--have bought largely and paid liberally. We conversed no longer than yesterday with one of the most extensive wholesale dealers of Market street, a first rate business man, and one, too, who has made an immense fortune in the trade with the West. 'Well,' said we, 'Col. P. how is business with you?' 'Never better,' he replied. 'Since I have been in Market street, more than sixteen years, I have never been so occupied as during the present season. For the last ten days I have been unable to eat a dinner with my family, and have frequently been compelled to remain at my store, packing up, until 12 o'clock at night.' 'Indeed,' we exclaimed. 'It is true,' he added. 'But, for all this, money is scarce—very scarce, and it will continue so until the panic passes away, and confidence is restored.'

"'And when will it pass away, and how will it be restored?' we asked.

"He took off his hat, drew his chair by our side, and said--'Not until the newspapers and politicians cease fomenting excitement--cease throwing into circulation suspicions and speculations as to the credit of this bank and that bank—not, in short, until confidence is restored between the Government and the capitalists of the country. The war between the bank and the administration has been a sad one for the people. I do not take sides with either. I believe both have acted unwisely, foolishly; but both are human beings, and influenced by the weakness and prejudices of human nature."

In this article we have the truth without disguise, that the panic is caused by the newspapers and politicians, by circulating suspicions and speculations among the people; that business was never better in Market street, and the Western trade unusually brisk, and, in fine, that the shock has gone by, and the storm spent its fury.

The course pursued by certain politicians here, reminds me of an anecdote I have heard, in relation to the effect of panic on the imagination.

To ascertain whether conceit would kill, certain physicians (not Senators) entered into an agreement, to try what effect they could produce on the mind of a sound, athletic man. In passing him every morning, one would commence with the exclamation, "Sir, you appear ill today." The next would accost him with grave looks, and declare that "he was sorry to observe his health was on the decline." A third would assert "that he had strong symptons of disease of a malignant character." And thus, "going from bad to worse," the man actually took to his bed, lost his health, and finally his life. Thus it is with some of our M. C's (not M. D's.) They "cry

aloud, and spare not," panic, distress, bankruptcy, and ruin; and thus endeavor to persuade the people that the whole body politic is on the brink of destruction.

There is another subject to which I beg leave to call the attention of the House for a few moments, and to express my kindest and most heartfelt acknowledgments to some of my colleagues for their fatherly care and watchful protection of my constituents. One of my friends says, May 3, "I almost forgot to mention how much you are indebted to the bank men in Congress for the care they take of your constituents in sending information to them. The mail is loaded almost every day with pamphlets and papers, sent on by them, and all to Jackson men, too, franked by Mr. —— and Mr. —— of Pennsylvania." I omit the names of my particular friends, and do not wish to flatter them to their faces, for their benevolent and kind intentions.

Another friend writes me, that "this morning most of my friends received McDuffie's and Calhoun's speeches; and, from appearance, the mails are loaded through all parts, and sent to the true friends of our worthy chief, Old Hickory.

"I enclose you the envelope. Let me know who has been so kind without any thanks."

Again: May 7. "The deluge of bank pamphlets still continues in this quarter. The mail contained scarcely any thing else last evening, and was full. The greatest number were for Jackson men, franked by ——— and ———, (my colleagues.) Kind souls! Good Jackson men, I'll warrant."

On the 8th, another letter says: "The mail was loaded this evening; sixty-five packets stopped at one office, addressed principally to Jackson men, and franked by Messrs. ——— and ———," my kind colleagues. A great number went up the river. It is a most outrageous imposition on the mail contractors and postmasters."

On the 9th. When I wrote to you last evening, I mentioned to you how outrageously Messrs. ———, ———, ———, and ———, were abusing the franking privilege, and I hoped they would have some compassion on the mail contractors and postmasters, and cease for a while to load the mail with bank pamphlets. But this evening we were visited with a most appalling and tremendous shower of bank and nullification speeches, forwarded to the good folks of this neighborhood. For the town of ——— alone, there were 270. The mail bag, of course, could not hold them, and I got a two bushel bag and put them in, which they filled full! I suppose the same game is playing all over the United States. The last load was under the frank of ———, and, as far as I can learn, consisted of speeches of McDuffie, Calhoun, Webster, &c. The bank advocates in this quarter are, or appear to be, ashamed of the affair, and some of them exclaim, "it is too bad!" When people are shown the piles, and stacks, and bags full of those speeches and Senatorial Jeremiads, the natural inquiry is, who in the world pays for printing all these things? And this question can be answered by asking another: Who or what is intended to be benefited by scattering these speeches amongst the people? The Bank of the United States, and those who are scrambling to get into power under its wing.

"I would like to know if there is no remedy for such gross and flagrant abuses. Can there be no limit to them? Why, it is an outrageous imposition on the mail contractors and the country postmasters. And yet those very men who are the perpetrators of the act are amongst the loudest in crying out against the abuses in the Post Office Department, and the mismanagement of it. I wonder where such men keep their consciences?"

I know not, Mr. Speaker, how to pay the debt of gratitude I owe my colleagues for their kind and generous interference in my behalf. I have not the least doubt that it is all done by them merely to give correct information to the people, and to aid and assist, to the utmost of their power, in making me popular at home.

Permit me to ask for information (because I cannot conceive how those gentlemen can bear the expense of sending such loads of speeches) whether they pay, as the friends of the administration do, from two to five dollars per hundred for them? I observe by the envelope sent me that clerks are employed to endorse the packets and write *free*, and the member has nothing to do but put his *sign manual*. This relieves my friends from some trouble; but still, do they pay these clerks? The Government finds wrapping paper, folders, &c., and the mail contractors and postmasters do their part of the duties required gratis. But still, the question recurs, at whose expense are those speeches printed? For although I am pleased to observe the solicitude of my friends for the dissemination of what they deem correct principles, yet I fear I shall never be able to repay those kind gentlemen a tithe of the expense they incur in rendering my conduct acceptable to my constituents, spending both time and money in their benevolent work of circulating speeches through my district, and all this, too, to benefit those stubborn friends of the administration who will not give any thanks.

Altogether inexperienced in legislation, when I observed honorable members asking to have the memorials presented to the House printed, together with the names attached thereto, being in some cases several thousands, I could not, for some time, conceive what object those gentlemen had in view except to supply a large quantity of what is termed "fat" for the public printer. But the mystery is now solved, as those names, when printed and laid on our desks, afford great facilities to my colleagues, as well as other friends of the bank, to direct speeches and documents to every village and neighborhood.

To be serious, does any man doubt that these self-same speeches are printed at the expense of the Bank of the United States, are circulated by members of Congress devoted to her interests, in every town, hamlet, and neighborhood, and for the very express purpose of putting down, destroying, and annihilating, if possible, the present administration and all its friends and supporters? And yet we are told that the bank, the pure, immaculate bank, does not interfere with politics, does not exercise any power or influence in our elections--that it pursues the even tenor of its way, regardless of any thing further than its own rectitude. Let those who can believe such assertions do so; but the sober-minded, thinking portion of the community are not thus to be gulled. Send on your pamphlets--deluge the country with bank speeches--load the mails till the next election, and you cannot purchase the votes of the freemen of Pennsylvania or of any other State.

One of my friends informed me, a short time since, that a colleague of mine who was unacquainted with my constituents had sent a number of speeches to some persons whose names were attached to a call for a bank meeting; and as they had never been so highly honored before, the postmaster would call some young men in who were passing by to get their packets. They usually took them; but one refused, and said "he did not want any pay for his signature." I merely mention this to show my colleagues that men's votes are not to be bought with speeches paid for by the bank and franked by them.

How far these gentlemen, who thus load the public mail with documents, are justified in abusing the Post Office Department, I pretend not to decide: they ought, however, not to complain while the mail contains scarcely any thing else than their franked speeches.

In the memorial sent me by the citizens of Milton and vicinity, they take occasion to censure the patriotic governor of Pennsylvania for his message to the Legislature of the 26th February last, "believing it to be a document calculated to carry out of the State an influence neither

derived from the popular will, nor the state of the case at issue."

What Pennsylvanian does not know that it was owing to the decidedly hostile exertions of the friends of the United States Bank against Governor Wolf, in the fall of 1832, that he came near losing his election? In 1829, his majority in the city and county of Philadelphia was nearly 11,000 votes, and in 1832 the majority of his opponent, who was the same candidate that ran in 1829, was about 1,200--making the difference of about 12,000 votes against Governor Wolf in Philadelphia city and county.

Every intelligent citizen of Pennsylvania cannot fail to remember that, in 1832, Governor Wolf's friendship for education, for the establishment of common schools throughout the Commonwealth, his zeal and anxiety for the promotion of our internal improvement system, had gained him many warm, and, apparently, unchangeable friends in Philadelphia. But the bank, the honest, non-political bank, could not suffer any person to be elected who would, directly or indirectly, be instrumental in the re-election of that tyrant, that usurper, that Cromwell, that Cæsar, that Napoleon, to the Presidency, in November: and thus we find Governor Wolf denounced by the bank party. We see Clay masons, grand masters of lodges, casting off their jewels—throwing to the wind the square and compass—meeting in convention, and abandoning the leader of the "American system"—coming out almost *en masse* for the anti-masonic candidate for governor; not because he was the decided friend of education and internal improvement, not because he was the choice of the national republicans, not because he was better qualified than Governor Wolf, but simply because Ritner had said that "he who was hostile to the Bank of the United States had neither a sound head nor a good heart," and our worthy governor would not denounce those of his friends who differed with him as to the propriety and advantages of a national bank, when asked to do so by those who were its advocates and supporters. Had he cringed and fawned for the friendship and influence of that corrupt moneyed aristocracy, we should not have seen a change of twelve thousand votes against him in Philadelphia. He was a favorite in that city; the liberal and enlightened policy adopted by him had met with universal approbation from all political parties in that commercial emporium.

But how true it is that "God made the country, and man made the town." Ninety-nine good turns were of no avail when he was required to forsake his friends and throw himself into the arms of Nicholas Biddle. It was in vain, he said, I have always been the friend and advocate of the United States Bank. My message shows my attachment to that institution: I consider the bank of immense importance to regulate the fiscal concerns of the country. The partisans of the bank say this is not sufficient. You must "go ahead" still further: denounce the President and the veto message; use your exertions to hurl him from his seat; come out from among the friends of Jackson, or you shall feel the force of our power, the weight of our influence. To this cause, and this alone, may be attributed such a tremendous and unexampled change of the vote in Philadelphia from 1829 to 1832.

Notwithstanding Governor Wolf was thus most shamefully abandoned by the bank party at his election in October, 1832, and would have been perfectly justifiable in denouncing the political exertions of that institution to defeat his election, we find him, in the honesty and sincerity of his heart, in his message to the Legislature on the 6th of December following, regardless of personal considerations, devoid of vindictive feelings, speaking favorably of the bank. He says: "It has certainly done the country some service; it has established a circulating medium in which the people have confidence; it has greatly facilitated the operations of Government; it has aided individuals in their pecuniary arrangements with each other, and especially in the transmission of money to distant parts of the Union."

Such were the sentiments of the present governor of Pennsylvania respecting the Bank of the United States after his second election; and to those who are acquainted with that amiable, high-minded, honorable man, any thing which I can say in his behalf is altogether unnecessary. If he has changed his opinion, and now believes that "this powerful moneyed institution is at this time seeking, by all the means of which it is capable, to accomplish certain objects indispensable to its existence; if "all its energies and all its powers have been put in motion to defeat the measures of the national administration in relation to it; if the State of Pennsylvania is indebted, in a great measure, for its disappointments heretofore, and for the failure to obtain its late loan; if the State was crippled and embarrassed in her pecuniary arrangements, and paralyzed for a time in her efforts to complete her great chain of improvements by the depressing policy of the bank," all of which is alleged by Governor Wolf, in his message of the 26th February, he merits the highest meed of praise for exposing to the world the course of conduct pursued by this moneyed monopoly, and his determination no longer to advocate and support an institution so capable, and apparently so ready, in order to subserve its own purposes, "to bring indiscriminate ruin and distress upon an unoffending community."

Governor Wolf, like many other friends of the United States Bank, among whom I may be permitted to say I was one, was unwilling to believe that it had lent its aid to political purposes. But he has seen and felt its influence in preventing our State loan from being taken. He has seen and felt the blow which that aristocratic monopoly has attempted to inflict on our system of internal improvements, and which has been so ably exposed by one of the Senators of Pennsylvania; but, thank God, the "Key Stone" is too firmly fixed to be driven from its purpose by the threats and denunciations of the Bank of the United States, and, in spite of her efforts to depress our stocks, we see them rising in the market every day--our improvements rapidly progressing to completion, and bidding fair to yield a rich harvest to the Commonwealth for the immense sums expended in their construction.

This much I have deemed it my duty to say in relation to what has been termed by gentlemen "the time-serving course" of our patriotic governor. As an honest, incorruptible, and intelligent chief magistrate, devoted to the best interests of his country, I could not see my friend (and I am proud to call him such) wantonly assailed without raising my feeble voice in his defence. His name and his conduct have been needlessly brought before this House in debate, and his motives impugned, and, as an excuse for my remarks respecting him, permit me to say--

"Absentem qui rodit amicum,
Aut non defendit, alio culpante,
Ille est niger, hunc tu, Romane, caveto."

It is alleged in the memorial from Northumberland "that the disbelief that the President was opposed to a United States Bank secured his re-election in Pennsylvania, is a fair deduction from the interests the people of the State have in the continuation of the bank." I cannot permit this assertion to pass without a few remarks; and, in order to satisfy those who believe that the bank question was not agitated before the last Presidential election in Pennsylvania, I will ask permission to read an extract from the Lycoming Gazette, a democratic paper printed in the town where I reside. It is dated October 24, 1832, just nine days before the electoral election, and reads thus:

"The Clay convention reassembled at Harrisburg on the 15th instant, after a secret session of nearly two days, determined on withdrawing their electoral ticket, and adopting that of the anti-masonic party, pledged to sup-

port William Wirt and Amos Ellmaker. There is, consequently, now no ticket in Pennsylvania favorable to the election of Henry Clay; the contest will be between the Jackson democratic party, upon one side, and proscriptive anti-masonry on the other, aided by a corrupt moneyed aristocracy. The Bank of the United States, with its seventy millions at its control, and a host of unprincipled dependants in its wake, has taken the field, side by side with anti-masonry, and, to accomplish its designing purposes, is willing to sacrifice all who will not join in the unholy crusade. Jackson, the patriot Jackson, must be put down; his Roman firmness and unbending integrity will not suit the views of the heartless aristocrats who manage the Bank of the United States, and who wish to control the destinies of the hation itself. A desperate effort must be made; friends and foes, who stand in the way, must be crushed, to put him down; and if all is likely to fail, the public press must be bribed, and corruption become the order of the day. We say it is time for the people to be alarmed, when they see a coalition of parties, between whom there is, and can be no community of feeling, actuated by different motives, professing different principles, fighting under the same banner, and the whole led on by a powerful moneyed institution. Then let all who love their country, and value her republican institutions, turn out to the polls on the 2d of November, and vote for the electoral ticket pledged to support the distinguished hero and statesman who now administers the affairs of this nation. His republican principles cannot be questioned; every act of his life has borne testimony to his zeal for the welfare of his beloved country. He cannot be swayed from his purpose by the denunciations of his enemies, nor corrupted by the countless millions of the overgrown bank. His purity of soul and honesty of purpose have been tested again and again, and in every situation he has proved himself the same uncorrupted and incorruptible patriot. Like sterling gold, the more he is rubbed, the brighter he appears; and, notwithstanding all the combined efforts to put him down, he will triumph over all opposition by an overwhelming majority."

Thus, after the defeat of the coalition for governor, we find the friends of the bank assembling at Harrisburg, resolving to abandon their first love, and go for the anti-masonic ticket for electors, in order to throw the election of President into the House of Representatives. But again they were defeated, by such a majority as astounded them. Many patriotic, liberal-minded anti-masons declined acting in concert with the Clay party any longer. They knew that the national republicans had not voted for Ritner on account of any loving-kindness for him, but because they supposed his election would defeat Jackson, and the bank flag would wave triumphant. Hence, we find that many of the leading, talented, and respectable anti-masons utterly refused to act with the opponents of the national administration on the presidential question. Knowing that Mr. Wirt stood not the least possible chance of election, and not wishing to thwart the voice of the people, as had been done in 1824, a number of them did not vote at all. Since that time, we find many anti-masons, satisfied of the corrupt practices of the bank, avowing their hostility to it, and among them the name of Richard Rush stands pre-eminent.

The memorialists "respectfully remonstrate and protest against the restoration of the deposites, and against the recharter of the United States Bank, or the establishment by Congress of any moneyed monopoly during the present session."

"They believe the experiment in operation, of substituting the State banks, for the purpose of aiding Government in its fiscal operations, and regulating the currency, to be feasible and practicable." And they "pray Congress to sustain the administration in its efforts to restore tranquillity to the country, by settling the question now before them, and putting an end at once to the hopes of the friends of the bank to obtain their object."

The question of the recharter of the present bank has already been decided by this House, and I have, by my vote on that important question, supported the views of the memorialists. I believe that the capital of the bank is too large; that its privileges are so extensive as to give it a power and influence over the moneyed concerns of the country, which are dangerous to the liberties of the people. A distinguished Senator from Kentucky, (Mr. Clay,) in 1811, used the following language respecting the recharter of the old Bank of the United States, with a capital of only ten millions:

"What is a corporation, such as the bill contemplates? It is a splendid association of favored individuals, taken from the mass of society, and vested with exemptions, and surrounded by immunities and privileges.

"Where is the limitation upon this power to set up corporations? You establish one in the heart of a State, the basis of whose capital is money. You may erect others whose capital shall consist of land, slaves, personal estates, and thus the whole property within the jurisdiction of a State might be absorbed by these political bodies. The existing bank contends that it is beyond the powers of the State to tax it, and if this pretension be well founded, it is in the power of Congress, by chartering companies, to dry up all the sources of the State revenue.

"The power of a nation is said to consist in the sword and purse. Perhaps, at last, all power is resolvable into that of the purse, for with that you may command almost every thing else. The specie circulation of the United States is estimated by some calculators at $10,000,000, and, if it be no more, one moiety is in the vaults of this bank. May not the time arrive when the concentration of such a vast portion of the circulating medium of the country in the hands of any corporation will be dangerous to our liberties? By whom is this immense power wielded? By a body who, in derogation of the great principle of all our institutions, (responsibility to the people,) is amenable only to a few stockholders, and they chiefly foreigners. Suppose an attempt to subvert this Government, would not the traitor first aim, by force or corruption, to acquire the treasury of this company? Look at it in another aspect. Seven-tenths of its capital is in the hands of foreigners, and these foreigners chiefly English subjects. We are possibly on the eve of a rupture with that nation; should such an event occur, do you apprehend that the English premier would experience any difficulty in obtaining the entire control of this institution? Republics, above all other Governments, ought to guard against foreign influence. All history proves that the internal dissensions excited by foreign intrigue have produced the downfall of almost every free Government that has hitherto existed; and yet gentlemen contend that we are benefited by the possession of this foreign capital. If we had its use, without its attending abuse, I should be gratified also. But it is in vain to expect the one without the other. Wealth is power, and under whatever form it exists, its proprietor, whether he lives on this side or the other side of the Atlantic, will have a proportionate influence. It is argued that our possession of this English capital gives us a great influence over the British Government. If this reasoning be sound, we had better revoke the interdiction as to aliens holding land, and invite foreigners to engross the whole property, real and personal, of the country. We had better at once exchange the condition of independent proprietors for that of stewards."

So clearly has this talented legislator depicted the dangerous tendency of such an overgrown moneyed monopoly, in the hands and under the exclusive control of a few individuals, that it would be a waste of time for me to enlarge on this point. But there are other insuperable

objections in my mind to the present bank. The acquisition of power appears to be its primary object, and it is not squeamish as to the means of obtaining it.

"Rem si possis recte; si non, quocunque modo rem."

It has expanded and contracted its loans, making money plenty and scarce, in turn, to advance its own interest. It has made extraordinary loans, without the usual securities, to editors of public journals. It has printed, and still continues to print and cause to be circulated amongst the people, reports, speeches, pamphlets, essays, and documents of various kinds, paid for out of the contingent fund, placed at the discretion of the president of the bank, under resolutions of the board of directors, for no other purpose than to control public opinion and to influence the elections. Instead of confining itself to defence, many of its publications are of a violent political partisan character, calculated to destroy the confidence of the people in their Chief Magistrate—denouncing him "who has filled the measure of his country's glory" as a tyrant—unblushingly admitting "that within four years past it has been obliged to incur an expense of $58,000 to defend itself against injurious misrepresentations"—or, in other words, to abuse the national administration—placing those who do not believe in its purity and infallibility on a level with those who "circulate false notes;" and, to cap the climax, when a committee of inquiry is appointed by Congress, to examine its books and investigate its proceedings, the directors refuse them the right guarantied by the charter, which says, sec. 23, "That it shall at all times be lawful for a committee of either House of Congress, appointed for that purpose, to inspect the books and to examine into the proceedings of the corporation, hereby created, and to report whether the provisions of the charter have been violated or not." From such a corporation, thus setting at defiance the power that created it, and the right to examine into its conduct, we cannot too speedily be delivered; and I consider it a duty, which I owe to the country, to my constituents, to myself, to oppose the recharter of so dangerous an institution.

My constituents say, in their memorial, "they believe the 'experiment' in operation, of substituting the State banks, for the purpose of aiding Government in its fiscal operations, and regulating the currency, to be feasible and practicable." In this opinion, the honorable Senator from Kentucky formerly coincided. He said, in 1811, "upon the point of responsibility, (yes, responsibility,) I cannot subscribe to the opinion of the Secretary of the Treasury, if it is meant that the ability to pay the amount of any deposites which the Government may make under any exigency is greater than that of the State banks. That the accountability of a ramified institution, whose affairs are managed by a single head, responsible for all its members, is more simple than that of a number of independent and unconnected establishments, I shall not deny; but with regard to safety, I am strongly inclined to think it is on the side of the local banks. The corruption or misconduct of the parent, or any of its branches, may bankrupt or destroy the whole system; and the loss of the Government, in that event, will be of the deposites made with each. Whereas, in the failure of one State bank, the loss will be confined to the deposites in the vaults of that bank."

I must, however, judging from the past, be permitted to express my doubts of the propriety of substituting the State banks in place of a national bank, properly regulated and restricted, for the purpose of assisting the Government in its financial concerns. This is a subject which I have examined with some care and attention. I have listened to those interesting debates which gentlemen have favored us with on this floor, the present session, and have satisfied my mind that a United States Bank, with limited capital, proper checks and restrictions, its powers and privileges duly restrained within definite bounds, and subject to the control of the representatives of the people, is highly necessary, expedient, and useful to the Government, and would be advantageous to the nation.

In this opinion I am aware that I differ with many of my most intelligent political as well as personal friends; but on a question of such vital importance to the welfare and prosperity of twelve millions of freemen, friendship and enmity should have no influence. I should feel myself unworthy of the confidence and support of my constituents were I to hesitate in my course.

"Nullius addictus jurare in verba magistri,
Quo me cunque rapit veritas, deferor hospes."

"Bound to no party's arbitrary sway,
I'll follow truth where'er it leads the way."

When the panic and excitement that have been got up and industriously circulated from Maine to Louisiana shall have subsided, and we can investigate the subject with cool deliberation and a single eye to the best interests of the country, I shall have no hesitation to go into the question of creating a new bank, with limited capital, guarded with such restrictions as will effectually prevent its using its corporate power against the Government. But while the "Delphic priests collect with holy care the frantic expressions of the agitated Pythia, and pompously detail them as the unbiased opinions of a free people," I almost despair of seeing any thing effected.

I fondly hope, however, that, on a subject of so much magnitude and importance, we may ultimately be able to adopt such measures as will restore tranquillity and happiness to the country, and promote the cause of "virtue, liberty, and independence,"

Without trespassing further on the patience of the House, I have to express my thanks for the indulgence given me; and the only excuse I have to offer for the occupation of so much time is, that it is the first time I have troubled the House during the session, except for a few moments, and it was with extreme reluctance I did so on the present occasion.

GLOUCESTER (VA.) MEMORIAL.

Mr. WISE, who had on the last petition day presented a memorial from Gloucester county on the subject of the currency, and had accompanied it with two resolutions on that subject, disapproving the reasons of the Secretary, and the course of the President, now moved that the consideration of the memorial and the resolutions be postponed to this day week; which was agreed to.

YORK COUNTY (PA.) MEMORIAL.

Mr. BARNITZ, of Pennsylvania, presented a memorial from citizens of York county, Pennsylvania, praying a restoration of the deposites, and a recharter of the United States Bank with modifications, and offered to the consideration of the House the following resolutions:

Resolved, That the removal of the public deposites made in the United States Bank before the 1st of October last, was not authorized by law.

Resolved, That the reasons of the Secretary of the Treasury, for removing and withdrawing the public deposites, are insufficient.

Resolved, That the Committee of Ways and Means be instructed to bring in a bill to recharter the United States Bank for a limited period, with such limitations and provisions, as to the capital stock and the powers and duties of the directors, as may be deemed expedient.

In support of the measures and principles embraced in the resolutions, Mr. B. addressed the House as follows:

Mr. SPEAKER: In obtaining the floor on this important and exciting subject, I shall endeavor to deserve the indulgence awarded to me, by presenting my views in a form as much condensed as possible. I cannot offer to the consideration of the House any thing new; the utmost I can aspire to will be some illustrations of the great

principles and topics involved in this debate, which may not be considered wholly uninteresting.

The subject, as now presented, involves an examination of the policy of the Government in relation to the public revenue, its custody and disposition; it also embraces a discussion of the powers of Congress, and the rights, duties, and obligations of the United States Bank, under its charter.

It is now no longer doubted, or denied, that a state of serious embarrassment affects the business concerns of the community in every section of our extensive country; every mail that reaches the capital, whether from the far West or the distant East, comes laden with the complaints of our suffering fellow-citizens, and their prayers for relief; they come, too, with this aggravation: We suffer not, say they, under our own misfortune or misconduct; we suffer not under any dispensation of Providence; no, we are prostrate under the measures of our own Government; the very arm is uplifted against us, and strikes the blow, to which we would look for succor and protection.

I was one of those who, in the early stage of these measures of the administration, believed they would chiefly affect our commercial cities, having immediate connexions with the bank. I was in error; their baleful influence pervades every section of the interior, and, like the blast of the sirocco, corrupts and destroys the life-blood of social intercourse, credit and confidence, between man and man; paralyzing the exertions, the energies, the hopes of the community throughout the whole land.

It is now about six months since I first left my home; at that time, although the storm lowered in the distance, it had not yet reached us. I left my fellow-citizens in the enjoyment of plenty, and reposing in security; through our fertile valleys, and even to the summits of our green hills, the cheering voice of thriving labor was every where heard, and the exertions of well-directed industry every where witnessed; while the farmer, the great source of our prosperity, dispensed his abundance to all around, in his varied intercourse with society. But this scene is greatly changed, and changing every day; I do not mean to say that there is actual suffering for want of the common necessaries of life; in a country so blessed as ours, that could not be. It is in the intercourse of business and the concerns of trade that our citizens are overtaken by this calamitous state of things; embarrassing their plans of improvement, and deranging their hopes of prosperity and advancement, so that the utmost that industry and enterprise can attain is to continue stationary, waiting better days; while others, less fortunate or persevering, are sinking under a pressure they cannot withstand or avert. Sir, this is not "a mere sketch of fancy;" our commercial and manufacturing interests, from the highest state of prosperity, are suddenly sunk to a disastrous and ruinous condition, and our agricultural prospects must necessarily be deeply affected. My respectable colleague, who addressed the House a few days since, [Mr. Anthony,] denied that our agricultural interests had suffered, and, as a reason, exhibited statements of produce-prices for the last few years, showing that they now are not much depressed below the measure of former times. Sir, this argument is fallacious; it must be recollected that in the country from which he derives his information, extensive State improvements are in progress, which furnish a present market for produce to a great extent; and we may remark that, before the pressure had commenced, the farmers of the interior of Pennsylvania had disposed of the largest portion of their surplus products; so that little is left beyond what may be required for home consumption. A comparison with prices of former years cannot be satisfactory, as the circumstances and demands of each year will affect its prices; but if the rates of labor or of produce are at all tolerable now, how much more so would they be under a high and prosperous state of our commercial and manufacturing interests, instead of the ruinous condition in which we now find them under the operation of this political experiment, which cramps and shackles our best exertions?

The county of York, which I represent, and the interior of Pennsylvania, generally, is a great workshop of operative industry; there are few men of capital there who can subsist without some regular employment; our people depend on some constant and daily engagements of business for their subsistence and prosperity. In a community like this, is the very place for the beneficial use of credit to a reasonable extent, and of a sound currency. It is thus that enterprise and industry receive their reward at the proper and convenient time, and in the appropriate value. The tradesman collects his bills quarterly, half-yearly, or at certain periods only; the manufacturer or mechanic on a larger scale, when his job is completed; the farmer, when his crops are sold; and thus it is, in a great measure, throughout all the various occupations and engagements of our citizens. In the mean time, all must live and obtain the necessaries, the comforts, and conveniences of life, which their situation requires. These, according to a course which has long been established, are obtained, to a great extent, from the various merchants in the interior, upon a credit founded, and safely founded in prosperous times, upon the expected returns of industry, to be repaid out of the profits of business. The merchant in the country obtains his credit to the usual amount from the merchant in the city, and he in turn has his accommodations from the United States Bank, the great centre and source of the active capital of the country. Thus the accommodation and credit originally obtained from the bank is extended from the one to the other, in a beneficial course, until it reaches, in some useful degree, to every workshop and every cottage; and those acquainted with the operations of business know that these benefits have been extensively enjoyed, although, in a manner, silent and imperceptible, until a derangement of the course made us to feel and to perceive the injurious cause. In a community where the means are furnished, by which our citizens can be supplied with the necessaries and comforts of life out of the returns or profits of their business, that must necessarily be a prosperous and improving condition. On the other hand, where these must be procured by encroaching on other means, or on the stock in trade, this is a situation which cannot be advancing or successful, and, if continued, must end in embarrassment and ruin. Every one can understand this, and, understanding it, can distinctly trace the cause of the present alarming state of things.

The United States Bank, under the measures of the administration, is pressed and required to wind up its concerns, to call in its loans and accommodations, more than two years before its charter ends. The public moneys, a fund on which vast accommodations were extended to the community, are withdrawn and given to those who, through their own embarrassments and various engagements, can make no beneficial use of them. The consequence is, that the merchant in the city is pressed; he presses the merchant in the country; and he, in his turn, must press his various customers; and, whilst he thus drains them prematurely of their means, he must inform them that, in future, his business must be a cash business, or that a very limited and uncertain credit only can be afforded. I conclude this part of the subject by adopting the strong but plain positions which the gentleman from Massachusetts [Mr. Choate] so ably and eloquently sustained—that our true policy is, to allow the people the use of their own money; and that

the withdrawal of their own funds from their own beneficial use is the true cause of their present embarrassments.

With regard to the currency, it is indeed a matter of surprise to hear from any quarter a denial that this bank has furnished a sound and useful currency to the people. We all know that it was owing to the measures and influence of this bank that specie payments were resumed in 1817; and that, by it, a useful paper currency was established which is at home every where. Sir, it is a fact, of every day's observation with those at all conversant in business in the interior, that those who travel, and those who emigrate to distant places, constantly apply for paper of the United States Bank, offering specie in exchange for it; and thus declaring the truth, that this is a currency equal in value, and for general purposes more convenient even than specie. As matters now stand, we distinctly see that the times of 1815 and 1816 are approaching; for we already find that the best local bank paper does not furnish a currency beyond its own State line.

It is my desire, Mr. Speaker, to examine this interesting subject argumentatively; and I will, therefore, endeavor to define several important terms and powers from the various uses of which different conclusions have been drawn. The treasury of the United States has been defined, by a late distinguished Senator from Virginia, in the abstract merely, as a state and condition of the public revenue; and this definition has been carefully followed by others: to give it the attribute of place would totally destroy the great conclusion of the Secretary. The treasury, sir, is a place for the keeping of the public moneys, while in the custody and under the responsibility of the Treasurer. It is a place, a local habitation as well as a name, as much so as the vault of the bank is the place for keeping its treasure; it has length, breadth, depth; the bank is the attributes of space; it need not be in one spot; but all the parts taken together constitute in law one place, and that place is the treasury. Another term which has occasioned misunderstanding is the term deposite. The public moneys are one thing, the deposites are a different thing. When the public moneys are deposited, they are no longer the moneys of the Government; they are the property of the bank, and under its entire control; the Government becomes the creditor, the bank the debtor. The sixteenth section of the bank law* refers only to the public moneys before they are deposited; it is only prospective, and does not authorize the Secretary to interfere with deposites already made. The fifteenth section relates altogether to deposites which have been made, and these can only be removed or changed for the immediate purposes of disbursement under appropriations by law. The removal of the deposites made before the 1st of October last, for the avowed purpose of giving the use of them to other depositories, was a manifest abuse of the provisions of the fifteenth section, and a palpable violation of the public faith. The United States Bank had a clear right to the use of these deposites until transferred for disbursement; and a removal, under color of law, for a different purpose, was as illegal as it was unjust. It was this breach of the public faith that produced the embarrassment and distress which first overtook the commercial community, and has since spread its destructive influence over the land. This removal for an illegal purpose was consummated by a contract with those State banks, made by the Secretary; also in the face of an existing act of Congress, declaring that no contract shall be made by the Secretary, except under an express law.* Such contracts being forbidden, no legal obligation could arise out of them, as every lawyer knows. Thus were the public funds, by the agent of Congress, taken from the place of acknowledged safety and ample responsibility, provided by law, and placed in depositories established for State purposes only; not under the control of Congress; the safety of which could be but imperfectly ascertained or known, and the legal obligation of repayment at least doubtful. What stronger proofs of these positions can we require than the very bill on our tables, reported by the Committee of Ways and Means—the obvious and only design of which can be, to give legal effect and establish legal responsibilities in regard to such contracts?

The Committee of Ways and Means, in their late report, endeavor to claim for the Secretary of the Treasury powers that appear to be without limitation, unless by Executive decree; and it is by this operation they labor to sustain his acts. Can it be believed for a moment, sir, in a Government like ours, a Government of laws, where authorities created are defined, and responsibilities specially provided, that the whole revenues of the nation are left under mere constructive powers, which may be interpreted so as to suit the interests or the will of those who may have obtained the reins? No, this cannot be; the constitutional powers of the several departments are too well settled to be overturned by new theories, got up to sanction political experiments. The act of 1789, establishing the Treasury Department, was made for the very purpose of superseding all previous and unsettled practices, and of defining the precise action of these two important officers—the Secretary and Treasurer. On reference to that act, passed September 2, 1789, it will be found that the Secretary has no discretionary power beyond superintending the collection of the revenue. When the revenue is collected, another officer, the Treasurer, is appointed to take it into his custody; and his responsibility then commences, and continues, without the interference of any other, until it be disposed of by express law, either depositing it in the bank legally provided, or disbursing it under legal appropriations. Congress, composed of the representatives of the people, constitutes that department of the Government which alone has the constitutional charge of the public moneys; Congress raises the revenue, has the custody of the revenue, and disburses the revenue. The Secretary and Treasurer are the mere agents of Congress, to take charge of the public funds in the manner prescribed to them; the Secretary gives no security, because he has no part in the custody of the moneys; security is required from the Treasurer, because he has the actual keeping of them. It is true, the Secretary joins with the Treasurer in disbursing warrants under appropriations of Congress; but he has no power to order a single dollar to be changed from the custody and responsibility of the Treasurer. The powers given by the 16th section of the bank law go not one jot or tittle further than to order a continu-

* Act incorporating the bank, sections 15 and 16.

Sec. 15. During the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall give the necessary facilities for transferring the public funds from place to place, within the United States or Territories thereof, and for distributing the same in payment of the public creditors, without charging commissions or claiming allowance on account of difference of exchange; and shall also do and perform the several and respective duties of the commissioners of loans for the several States, or any one or more of them, whenever required by law.

Sec. 16. The deposites of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and, if not, immediately after the commencement of the next session, the reason of such order or direction.

* Act of May 1, 1820, sec. 6.

ance of the money in the treasury, but not to remove or change its custody, or the responsibility attached to it. When the Treasurer deposited moneys in the United States Bank, his security was discharged, *pro tanto*, and the charge devolved upon the bank until actual disbursement. The transfer order was a mere notice, intended to meet the distant wants of the Government in its payments; but not until actual payment, under warrants, was the bank discharged.

I beg the indulgence of the House while I briefly examine the power of the Secretary under the 16th section of the bank charter, already referred to. By this section it is provided that the deposites of the public moneys of the United States shall be made in the United States Bank or branches, unless the Secretary of the Treasury at any time otherwise order and direct. Now, sir, here is a specific act to be done; the public moneys are to be deposited in the bank, unless the Secretary order otherwise; that is, they shall not be so deposited. Here is the simple affirmative, and here is the simple negative; and no construction of a grammatical kind, nor any legal interpretation, can go further. Analyze the section by reducing it to its most simple terms, and it stands thus: The Treasurer shall place the public moneys which he may have received into the treasury, in the Bank, on deposite, unless the Secretary shall, at any time, order him not so to deposite them. Here is the extent of the order, the limit to the power. What, then, becomes of the public moneys? They remain just where they ought to be—in the treasury; in the custody and power of Congress, where no other power can control or interfere with them. This place is presumed to be ample and capacious for their reception and keeping; they are under sufficient responsibilities until Congress can act further, if deemed expedient. But the Secretary assumes a new and distinct power, and that is, not only to order the moneys to be withheld or suspended, but again to take them out of the treasury, and place them on deposite where he pleases. Now, if, by his first order to withhold, the public moneys were exposed, as it were, on the highway, had not a place of legal keeping and responsibility, he might argue, as a matter of necessity, the power to provide some other place of safety or deposite; but when they remain in the proper legal custody, he has no power further to interfere. Here we see the reason why gentlemen have so ingeniously argued that the treasury is not *a place;* that it is a mere abstract state or responsibility; and, being such, place was only an incident following the responsibility; and there being none assigned, the necessity of the case threw it upon the Secretary to provide a place or places. Sir, the Treasury Department was established in 1789, before any United States Bank was created; and, from the very nature of the case, an appropriate legal place was then provided for the public revenues, and has ever since been continued. The Secretary argues in his letter through nineteen pages, to prove his right, in the first instance, to withhold the deposites; he then* says: "The propriety of removing the deposites being thus evident, and it being consequently my duty to select the places to which they were to be removed," &c. Here is no argument to show this important consequence or additional power whatever; he assumes it, and this very assumption, contained in a single sentence, is the foundation of the alarming attempt which takes the whole revenue out of the hands of Congress, and places it at the will of the Executive. It is this very stretch of power which has created the greatest excitement and just alarm; it is this which creates a scramble for patronage, arising out of the deposites; it is this which, in reality, will get up political influences in banks spread over the whole country, as candidates for Executive favor, and will necessarily bring the selected banks into the field. But, sir, carry out this monstrous power, and see to what it leads you. It leads to what is so much deprecated--a direct union of the purse and the sword. Gentlemen have argued that this union would be effected by reason of the original right claimed by the Executive, of controlling the appointment of a Secretary until one was found disposed to obey him; but, under the view I have taken, the Secretary claims the exclusive right to place the revenue where he pleases. He argues that the Executive may control his acts, and take the responsibility; and, as he is responsible, the conclusion is, he should in fact be the keeper of the fund. Here, at the will of the President, acting immediately, the revenues are directly in his power, and, in effect, in his hand; that is, the commander of the army and navy is also the commander and keeper in fact of the treasury. The argument of the Secretary in his letter, and those who sustain him, has this course: Congress has parted with its power over the revenues; has given it to the Secretary absolutely; the Secretary acts under the influence and entire control of the President, and may place it in his hands, as the person responsible, and then it can only be reclaimed by an act of legislation: and that act may be stayed by the veto of the very hand that holds the money. Never was a political contrivance more perfect; and if it can be sustained, the act incorporating the bank should be changed in its title, and should be called an act to place the revenues of the United States in the power and keeping of the President of the United States; and Congress will, by a deliberate act, have given up its most important constitutional right and duty, the control and disposition of the public funds. The course adopted by the Secretary and the Committee of Ways and Means leads directly to the extraordinary and alarming results I have stated; whereas the construction I have offered admits to this officer only a limited authority to suspend the action of the Treasurer in making the deposites; keeping each Department in its proper sphere, and leaving the revenues where they should be--in the treasury, in the power and under the direct control of Congress alone. What the subsequent action of Congress may be, I shall, under an appropriate part of this discussion, present to the consideration of the House.

Permit me here to make a digression from my course of argument, for the purpose of noticing some of the prominent views which have been ingeniously offered from time to time, by those who sustain these measures of the administration. When, in early stages of the discussion, it was alleged that serious embarrassments and distress affected the community; the fact was denied, or lightly treated, until the thunder rolled over our heads, and "the bolts came thick and fast" upon us from the east and the west, the north and the south: so that no refuge could longer be found under the covering of denial. Our hopes were next appealed to, and we were assured that these troubles would soon pass away; for that the void which was created by the necessary curtailments of the bank would be soon filled up by the issue of the new depositories; that it was only removing nine millions from one side of the street to the other. This was but "the word of promise to the ear," as we soon experienced; the nine millions, the sum on deposite, before it was removed, was kept in beneficial employment and active circulation in the community, through the instrumentality of the United States Bank. The bank receives its doom from Executive power; it is told to stop and wind up its concerns; it must necessarily withdraw from the community a sum sufficient for the repayment of the deposites. The selected State banks, it is soon found, have their own troubles, and embarrassments, and home obligations to answer; so that they can neither supply the void nor afford relief. A new argument is next resorted to, and

* See Secretary's letter, with his reasons, to Congress, page 19.

we are gravely assured that it is utterly impossible that the withdrawal of nine millions from a circulation of more than a hundred millions could cause general distress. This view soon appeared as fallacious as others; for it must be remembered that nine millions in active circulation may discharge debts and obligations between man and man, in a business community, exceeding a hundred millions. One receiving his claim is enabled to pay his debt to another, and thus a sum, comparatively small, discharges responsibilities to a great aggregate amount.

All these resources failing, our ingenious opponents resort to another course, and endeavor to shift the responsibility of these ruinous measures, by throwing the odium upon others; they allege, we have excited alarm and panic, and this has occasioned the distress and embarrassment which prevail. Panic is not a cause, it is an effect or consequence arising suddenly from an imaginary cause; the just apprehensions of men, under approaching danger and evils, which they see and feel around and about them, do not constitute panic. The very case which was related by my colleague [Mr. ANTHONY] in his argument was the strongest condemnation of his own views, and the best illustration of mine; his story was, that three physicians combined to try the effects of panic upon a healthy subject. They select a man in full and perfect health; one of them meets him, and assures him his appearance indicates disease; the subject declares he feels as well as usual; soon after, a second meets him, and repeats the dose, which produces some alarm, and afterwards the third meets him and makes a still stronger application; it takes serious effect; the poor subject becomes really ill, and dies in consequence. Now, the whole force and point of this story rests upon the fact, that the subject was in full health and vigor before the operations commenced; and here is the precise difference between the case referred to and that which we have before us. In that which we have charge of, the friends of my colleague had been trying a course of experiments upon the body politic, their patient; they destroyed a healthy circulation, shattered his constitution, brought on a wasting consumption, and at length abandoned him to his fate. Others are called to the relief, and, as a matter of conscientious duty, they assure the patient he has been the subject of improper treatment; that there is no hope but in retracing his steps, and resorting to different remedies. This was required by every consideration of humanity, duty, and conscience; and I thus leave to gentlemen to determine which of the two cases the story best illustrates.

I now beg leave to examine the construction of the law incorporating the bank, with a view to the action of Congress, under its present circumstances. It has been boldly asserted and assumed, that to restore the deposites to the bank requires legislative action, in the shape of a new law: this position I deny, as I believe, upon the clearest grounds of sound and proper construction and legal interpretation. Upon the best reflection I could give to the subject, I had come to this conclusion, and I find it in accordance with high authority, both in and out of Congress. When the Committee of Ways and Means approach this subject, they see the difficulty, and endeavor to get over it by laying hold of an idea that the bank had no right to the deposites as matter of contract. They reason the point, but not with much confidence; they contend that the power given to the Secretary by the 16th section of the law was a reservation of the original right, and thus not a new contract. Why, sir, a reservation, from its very nature, is a resumption, upon certain terms or conditions, of a right or power which had been granted; a grant with an unqualified reservation of part is a legal absurdity; but a grant with a reservation under certain terms, the reservation itself, is a matter of contract. A lease is made with power to re-enter in case of non-payment of rent; on default, the lessor may enter, and is in, as on his former possession; but still he obtains this as a new possession under his contract. Again, it is contended, there is no contract as to the deposites, because, in the original draught of the bank law, the 16th section was not contained, although the 20th section providing for the payment of the bonus was as it now is. The reason of this was, that the deposites were secured virtually to the bank by the 15th section; according to that section, all the moneys of the Government were to be disbursed through the bank, and it was necessarily implied that they should be first deposited there. Before the law finally passed, it was, however, thought expedient to have a distinct section providing for that right. This act was passed as a proposal of the Government; it contains the express right of the deposites to the bank, and in the 20th section declares that, in consideration of the exclusive privileges and benefits conferred by this act upon said bank, the bank shall pay to the United States fifteen hundred thousand dollars. Upon the strength of these provisions, the stock was subscribed; and if any man can be got seriously to think or to dream that the right to the deposites was not the principal and great benefit paid for by the bonus, his conviction can never be reached by argument. Sir, the Secretary of the Treasury did not venture so far; for he declares emphatically, in his letter, that the charter is a contract in all its parts; and the committee, on the seventh page of their late report, also declare that the charter is a contract in express terms.

In analyzing the law incorporating the bank, I find it is reducible to several distinct covenants on the part of the Government, each with its correspondent obligation on the part of the bank, and in each case a specific, appropriate remedy. One principal covenant is the contract or grant of the corporate powers during twenty years; the correspondent obligation by the bank is, that those powers shall not be violated; the remedy agreed upon is a *scire facias*, to be issued by a court of justice, to try, before a jury, whether the charter has been violated; and, in case of violation, it may be annulled. The *scire facias* may be issued by order of the President or Congress. Another principal covenant is, on the part of the Government, to receive the notes of the bank in payment of its dues; the correspondent obligation by the bank is, that its notes shall always be paid in specie when required. The remedy provided in this case is an immediate act of Congress prohibiting the receipt of the notes. As the suspension of specie payments by the bank would be a matter notorious, no intermediate agent or inquiry was necessary to the direct action of Congress. The last principal covenant, on the part of the Government, is that of the 16th section, that the deposites shall be made in the bank or its branches; the correspondent obligation on the part of the bank is, that the deposites are safe, and shall be repaid on legal demand. In all deposites this is the implied but clearly established obligation, perfectly known and understood in law as well as in reason and common sense; it is not expressed, but is well understood by all; there can be no other conditions, unless they are made in express terms. Did you ever hear that, when a person deposites money in a bank, the officer expressly says, It is agreed we will keep your money safely, and repay it on demand? No, sir; this is not expressed, because it is perfectly understood and known to be the legal obligation. In all contracts, when one party actually fails to perform, the other may annul the contract. In this case, a peculiar remedy, or mode of rescinding the contract, is provided, in case of violation. By one of the articles, the Secretary of the Treasury is furnished with a weekly statement of the situation of the bank, its debts, credits, and specie funds, in a general form. This is the evidence provided for him to act; and upon it, if he believes the bank no

longer a safe depository, able to pay on demand, he has the power to order a suspension of the deposites. This is merely an inchoate act of a cautionary nature. The Secretary has no right to rescind this important contract. Congress reserve this to themselves; and, by the express agreement of the parties, they are constituted the final umpire or arbiter in regard to the contract, and are to judge between the bank and the act of the Secretary. The Secretary reports the fact and his reasons to Congress, to enable them to judge as arbiters, not in a legislative character, because no legislation is required; this is for the benefit of the bank, as Mr. Crawford expressly asserts, in his letter on Edwards's application.* The power of Congress, then, is to confirm the reasons of the Secretary, or not. If they confirm, the contract is wholly rescinded; if they do not, the right of the bank is at once restored, and may be enforced judicially. If ordinary remedies do not reach the case, then the remedy by mandamus to the Treasurer is the appropriate one; the contract is restored, and the only remedy is of a judicial character. I hold it perfectly clear that the confirmation of the Secretary's act must be by the concurrent assent of both Houses; and that a dissent by either, both having a full opportunity and means to act, will be deemed conclusive as to the disaffirmance of the action of the Secretary, and the full restoration of the right to the bank. This right may for a time be withheld by the hand of power; but, sooner or later, justice must be done, and the faith of this nation will be redeemed.

As the last argumentative point, I will now briefly examine the letter or report of the Secretary of the Treasury, containing his reasons for removing the deposites. He first discusses his powers, and then applies his reasons under those powers. The authority of the Secretary, under the old law, he asserts was to ensure the safety of the public funds and their faithful application. The law incorporating the bank he declares did not alter the former law. He afterwards enlarges his position, but without any reason assigned, and suggests that it is the duty of the Secretary to withdraw the deposites whenever the change would in any degree promote the public interest; and, as if this rule were not broad enough, he subsequently adopts the conditions to be whenever the public interests and convenience require it,† of which he is to be the judge. It is very clear that this is no rule whatever; it depends merely on opinion and undefined discretion. Here we have a singular case, whether we examine it morally or legally. An important contract is made; a heavy consideration is paid by one party for the principal benefit; and yet we find the one party declaring that this very benefit may be withheld by it, whenever its interests or convenience require it. We here see the strange absurdities to which the Secretary is driven, to find a principle broad enough to cover the reasons which he afterwards assigns. A principle, at variance with common sense and common justice, is laid down so as to include the reasons to be offered, instead of reasons furnished to meet an established principle. The Secretary does not say that the bank is not a safe depository, willing and able to perform its engagements. No person ventures this assertion. And yet, if the views I have already submitted have any force, then the safety and the ability of the bank to pay were the sole conditions attached to the deposites. But what are the reasons assigned? Those which appear important I will briefly examine. The substance of the first is, that, as the charter will expire in March, 1836, the bank should close its concerns, and, as one step towards that end, the deposites be withdrawn. This is a singular reason, and requires only to be stated to expose its fallacy. Congress pass the law giving an important right, and exacting important duties from the bank, to continue until 1836. The propriety and expediency of this measure was fully considered when it was granted, so far as related to time; and now the mere agent of Congress undertakes to rejudge their act; and, as a reason to justify himself, declares it inexpedient to continue this right for that time, and therefore repeals this provision of the law. Moreover, the Secretary nowhere notices an important circumstance: that a period of two years beyond March, 1836, is expressly given by the charter to enable the bank to collect debts and discharge its obligations. It is further stated by the Secretary, that, at the late presidential election, the people decided what he calls the issue, and confirmed the opinions of the President as to the bank. This, sir, is a novel and dangerous doctrine, that the election of a candidate is to confirm his opinions in regard to what the future interests of the people may require. I am glad to find that a Senator from Pennsylvania denies this conclusion. Either the present bank, or a national bank in some proper shape, is demanded by the people of that State almost unanimously. Public improvements to be made with our surplus funds; a tariff for protection; the land bill, which would yield to the State a sum large enough to save her citizens from an oppressive tax—in all these cardinal points of her policy, the President's opinions were opposed to Pennsylvania. To suppose for a moment that, by her strong support in his election, she confirmed or assented to opinions so destructive to her best interests, would be an absurdity. If her vote had any reference to his opinions, it was that, by signally proving her attachment to him, she hoped that his views or his prejudices would change, and that, in grateful return for her support, he would favor and foster those great interests so necessary to her prosperity and her very existence.

Another reason assigned by the Secretary, for the removal of the deposites, is that relating to the three per cent. stock: this was a transaction highly useful to the public, and in nowise injurious to the Government. It was referred to Congress, who decided upon it, and were fully satisfied as to the measure; and it seems most extraordinary, when the superior power expresses the opinion in regard to a transaction,* "that it does not call for, or admit of, any action of Congress upon it;" the mere agent should offer it, as a justification for his subsequent action.

Another reason is, what is called the French bill; a claim for interest or damages, by reason of the refusal of the French Government to pay a bill drawn by our Government, and paid or purchased by the bank. The answer here simply is, as this claim is not yet legally determined, that, if the bank can recover the amount as a legal claim, the directors, or trustees, cannot release or relinquish it; if they do, they are themselves responsible; if it be not a legal claim, they cannot recover it; and, if they do recover it, it forms a just claim against the French Government, and must be paid ultimately by them.

The remaining reason of any consequence, which I shall notice, is, that the bank has expended large sums of money in printing various pamphlets and publications, that interfered with the politics of the country; or, in other words, with the objects of men in power. This expenditure was made to sustain the credit of the institution, in public opinion; it had been assailed by the head of the administration, and the presses under official patronage all joined in the cry, to destroy public confidence in it, and ruin the interest of the stockholders. The directors having charge of these interests, in many cases the sole dependence of widows and orphans, believed it their duty, as it was their right, because nothing in their charter or the laws forbids it, to publish various

* See documents attached to report of the committee.

† See Secretary's letter, page 2.

* See Report Committee of Ways and Means, 1833.

documents and publications, showing the solid and safe condition of the bank, the principles on which it was conducted, and the great injustice of the continued attacks upon it. No unprejudiced mind can see that the complaint on this head is, not that the bank issued documents and publications, but that these publications were not in accordance with the plans and wishes of those in power; if they had been of a more suppliant character, you would have heard no complaint in this respect. The attacks made were through a political channel; and to repel these attacks, and defend itself, the same channel must be, in some respects, resorted to; not for the purpose of acquiring political power, which would be useless or injurious to any institution of this kind, but to preserve and protect the rights and interests which the laws had conferred upon its stockholders, who had no concern with politics more than the rest of their fellow-citizens. The share of the Government in these expenditures is estimated at $10,000 or $12,000; and to remedy this, the Secretary removes the deposites, which, through the bank, produced to the Government more than a hundred thousand dollars a year, besides sinking the real selling value of the public stock at least a million and a half; and all this, sir, under the plea of consulting the public interests and convenience. It is also said, as a matter of complaint, that the bank had granted large accommodations to owners of extensive printing establishments which were favorable to its interests. The bank had, at that time, money to lend to all applicants who gave satisfactory security to the directors; and, as it is not pretended that these accommodations have been the means of excluding any other applicants, I am utterly at a loss to see the force of this reason, and can only ascribe it to the strong desire of the Secretary to invoke every feeling of party or power against this institution.

Mr. Speaker, I desire it may be distinctly understood, I appear not as the advocate of the bank; I care not for her interests, except as they are connected with the best interests of my country; and in endeavoring to sustain her rights, I feel that I am supporting the cause of justice and of public faith, not less than the welfare of the community; for, to use the eloquent language of my distinguished colleague, [Mr. BINNEY,] the shaft which was aimed at the bank has glanced aside, and fallen on the bosom of the country. Sir, I never held a share of the stock, nor have I ever had accommodation, loan, or favor from that source; my constituents have no connexion with the institution to warp their feelings or mine, nor do we feel any other interest in its continuance or its rights than as we believe it beneficial to the country in producing a useful currency, and affording a credit necessary to the convenience and prosperity of the people.

According to the best reflections I have been able to give the subject, I am led to the conclusion that a recharter of the present institution, with proper modifications, will be most useful and least inconvenient: but if this should not be deemed expedient, I cheerfully go for a national bank, to supply the place of the present one, at the proper time, under restrictions and alterations that may be deemed unexceptionable; and, in this course, I believe I represent the general interests and opinions of my constituents.

Before I conclude, Mr. Speaker, I beg leave to submit to the House certain statements, which I think will be found interesting. Throughout this debate, and out of this House, from the highest authority to the lowest dependant on Executive favor, we have heard it daily sounded that the bank was a monster of avarice; grasping and fattening upon the spoils of labor and industry; a harpy preying upon the vitals of the community and the Government. By arts like these, impressions were naturally made that the stockholders were obtaining exorbitant profits. To ascertain the true state of the account, I have procured from the proper authority the exact amount of all dividends made since the commencement of the charter to this time, and find, to my astonishment, that the stockholders have received only the average dividend of $5.31 per cent. per annum; and owing to the increase being in the last years only, the cash value of this average does not exceed five per cent., a sum less than the common dividends of State banks, and less than the ordinary worth of capital in any concern of business. True it is, there is a large surplus fund; but when debts are paid and capital refunded, with losses and expenses incident to winding up such an institution, little will probably remain; certainly not enough to make up the deficient dividends.

I will now present the account as it stands between the bank and the Government. The average amount of public deposites, from the commencement until last October, is, in round numbers, $7,000,000; the interest of which, per annum, is $420,000; one-fifth going to the Government on its stock, leaves to the private stockholders $336,000 annually, as the gain from the deposites. On the other hand, the bank has paid a bonus to the Government of $1,500,000. This sum, on interest from the time paid and averaged, is equal to $156,000 per annum. In addition to this, the bank received, kept, remitted in specie funds, and disbursed the revenues, without risk, loss, expense, or charge to the Government. What were these services worth? Receivers of public moneys from land sales are allowed one per cent. on sums received and paid into the nearest bank, with $500 in addition; probably equal in the whole to two per cent. Pension agents receiving and paying, where no branches of the bank are fixed, are allowed, according to the Blue Book, two per cent. for the same services performed by the several branches. This is the nearest analogous case; although in those cases there is no risk nor charge of remittance. In adopting two per cent. as a reasonable rate of commission for all the services of the bank, we may be assured that if the same services had been performed by agents and officers, the expense, risk, and losses to the public would have been double that amount. I further find that the average receipts of the revenue for the last seventeen years, according to the statistical tables, amounted to $25,000,000, and the disbursements to the same sum, within a small fraction. The average deposites arise from the interval between receipt and payment. Two per cent. on the amount thus ascertained yields $500,000, which, added to the bonus, amounts to $656,000, as the value given annually by the bank in money and services to the Government, while it receives only 336,000 dollars. If two per cent. is deemed too high a rate, take one per cent., and still the Government is gainer to an immense amount.

According to these views, (and members may satisfy themselves of their accuracy,) we see that this institution, assailed and vilified as it has been, during its charter, has annually conferred immense pecuniary advantages upon the community, besides its general benefits and advantages extending throughout the country, without even the usual return for its capital; and we also find that, instead of preying and fattening upon the Government, the public gains, in money and useful services, have been immense in amount. These considerations should at least remove our prejudices, and invoke our justice towards this much-injured institution.

Sir, I have now done; and, after thanking the House for their indulgence, I have only to add the hope that my views on this interesting and important subject may be received in the same spirit they have been offered—the spirit of candor and honesty of purpose.

MADISON COUNTY (KY.) MEMORIAL.

Mr. LOVE presented a memorial from the citizens of

Madison county, Kentucky, in favor of a restoration of the deposites. Mr. L. said that he had delayed presenting this memorial, in the hope that he would have received a list of the names of those who had signed it; he had been informed that there were 1,200, and that they would be sent to him. Not having received them, he presumed that they had been lost or miscarried; and he did not feel at liberty to delay any longer presenting to the House the views of so respectable a portion of his constituents on this all-important subject. He knew that the people of Madison were as intelligent, and understood their interests as well, as any portion of the people of Kentucky. They were industrious, enterprising, and essentially agricultural. They were exporters of stock, and he believed exported a greater amount of live stock from Kentucky than any county in the State. They were, therefore, deeply interested in a sound currency. In common with others in Kentucky, they had suffered all the evils of a spurious paper currency. They had just emerged from that state of things; they were enjoying a high state of prosperity; the farmers were realizing fine prices for their produce, and their enterprising young men were engaged in taking it to market. They represent, sir, that this state of things had been broken in upon, and they attribute it to the derangement of the currency, by the removal of the deposites. He had great confidence in the judgment of the people of Madison; they were practical men; they were neither owners of bank stock, nor engaged in stock-jobbing; they had every thing to gain by having a sound currency, and every thing to lose by a vicious one.

Mr. L. said he would remark, while he was up, that he regretted not being here when the vote on the report of the Committee of Ways and Means was taken, although his presence would not have changed the result. He left Washington on business of an imperative nature, and his friends had informed him he could do so with safety, as it was not their opinion the vote would be taken before his return. In addition to this, a friend from Georgia, on the other side, gave him the promise that he would not vote for the previous question until his return, and did not do so. As he wished to shun no responsibility, he took this occasion for saying that he would have voted, had he been present, with the minority on all the resolutions but that which proposed an investigation of the United States Bank.

CLARK COUNTY (KY.) MEMORIAL.

Mr. ALLAN, of Kentucky, rose and said: Mr. Speaker, I ask leave to present to the House a memorial of the citizens of Clark county, in the State of Kentucky, on the subject of the removal of the deposites. This paper comes from a county that has long, in many respects, been highly distinguished. That region, unsurpassed in natural fertility, has been beautified and enriched by a tasteful and profitable cultivation. Order, wisdom, industry, and economy are the characteristics of the people. In all of the innovations which, for a time, distracted the State of Kentucky, the people of Clark county stood firm by the constitution. This paper comes from a pure fountain; it was dictated by neither office-holders nor office-seekers, nor contrived by politicians for political effect. It comes directly from the people, containing sound lessons of practical experience.

Sir, it would be wise for those who are intoxicated with boundless authority, and who are now towering at the giddy heights of power, to pause and listen to the voice of experience, of truth and reason. Those who have accidentally gained the command, may, for a length of time, retain their posts, if they have the wit not to touch the sources of public property; but when they so far depart from policy as to thrust their hands into the pockets of the people, the days of their elevation are numbered. It is just as sure as that God rules the heavens, that no man, however great his power and popularity may be, can stand, in this country, who plants his feet upon a base currency. He is but a short-sighted politician who does not see that a stable currency and the public prosperity are indissolubly linked together, and that one cannot exist without the other. Who is so blind as not to see that the blow aimed at the currency has fallen with all its force upon the arm of industry? Sir, can that power stand that is erected upon the ruins of the labor of the people? It was said, when we first assembled here, that the extent of the evils of the late measures of the administration would be confined to the cities; that their force would be spent upon the unthrifty, improvident over-traders.

Sir, if an interior situation, freedom from debt, prudence, economy, the most exuberant bounties of nature, improved by the most untiring industry, could have prevented the spread of the general mischief, then you would have heard no complaint from the county of Clark. But, sir, there is no shield that can protect any portion of the Union from a participation in the general calamity.

Labor is the means by which the wants of man are supplied. When you strike down the standard of value, you paralyze the hand of industry, and the mischief equally pervades the seaboard and the interior, the city and the country; the mansion and the cottage, the mountain and the valley. When I left home, in November, these memorialists were in the enjoyment of uncommon prosperity; their industry was rewarded by high prices, promptly paid, in good money. Their prospects are reversed, and they now present themselves before Congress, to complain that their constitution and laws have been violated, and the national currency threatened with destruction; that they already feel the effect of these unwise and improvident measures, and see decay and ruin associated with their further continuance. They therefore pray that you will pause in this downward march, and re-establish the ascendency of the popular authority, restore the constitution, cause the laws to be executed, and protect their industry from the paralysis of a debased paper currency.

[Numerous proceedings, memorials, &c. were then presented successively to the House, until its adjournment, and appropriately referred, most of them on the all-engrossing subject of the removal of the deposites and the recharter of the Bank of the United States.]

The SPEAKER then laid before the House a letter from Cornelius W. Lawrence, of New York, resigning his seat in the House, which was laid on the table.

The House then adjourned.

Tuesday, May 20.

INDIAN AFFAIRS.

Mr. HORACE EVERETT, from the Committee on Indian Affairs, to which was referred so much of the President's message as relates to Indian Affairs, made a detailed report, accompanied by three bills, viz:

1. To provide for the organization of the Department of Indian Affairs;
2. To regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers;
3. To provide for the establishment of the Western territory, and for the security and protection of the emigrant and other Indian tribes therein;

Which bills were severally read the first and second time, and committed to the Committee of the Whole House on the state of the Union, and ten thousand copies of the said report were then ordered, by unanimous consent, to be printed for the use of the members.

KENTUCKY ELECTION.

Mr. JONES moved the following resolution, which was unanimously agreed to:

Resolved, That Robert P. Letcher and Thomas P. Moore, Esquires, have leave to be heard at the bar of this House, in defence of their respective claims to a seat in this House.

Mr. J. called for the reading of the report of the majority of the Committee on Elections, which concludes with the following resolutions:

Resolved, That Thomas P. Moore be declared entitled to his seat as representative for the fifth congressional district of Kentucky.

Resolved, That R. P. Letcher, in consideration of the expenses to which he has been subjected, is entitled to receive remuneration, at the rate of eight dollars per diem, and a similar sum, as viaticum, for every twenty miles.

Objections having been made to the reading of the report, the House decided that the report should be read, ayes 69, noes 57. It was read through accordingly. Whereupon,

Mr. BANKS rose to inquire if it was in order to move to refer this subject to a Committee of the Whole House.

Mr. HUBBARD (Speaker pro tem.) replying in the affirmative—

Mr. BANKS moved that the reports and resolutions presented by the majority and minority of the Committee on Elections, on this case, should be referred to a Committee of the Whole House on the state of the Union.

Mr. JONES rose, not, he said, to make any comment on this motion, but to ask for the yeas and nays upon it.

They were ordered; and the question thereon having been put, it was decided in the negative: Yeas 84, nays 106.

So the House refused to commit the reports.

The question then being on the adoption of the first resolution—

Mr. BANKS moved the following amendment thereto:

Strike out all after the word "resolved," and insert, "That all the legal votes which were received in Lancaster, (Garrard county,) whilst Morris Grant, Esq. acted as one of the judges, on the first morning of the election in August last, and those of a like character given on the second day of the election, in the casual absence of the sheriff, ought to be estimated in ascertaining the result of the election."

Mr. B. rose to address the House, when he gave way to

Mr. STEWART, who suggested that, as a large portion of the documents had just been printed and laid on the table, it would be better to lay over this subject until to-morrow: and that, in the mean time, the House could dispose of two important bills on the Speaker's table—the Cumberland road and Harbor bills. He, therefore, moved that the House proceed to the orders of the day.

Mr. JONES said that he must press his motion, and he called on the House to decide it.

Mr. MARDIS inquired if the election case was not the special order of the day?

Mr. HUBBARD replied, it was, until 12 o'clock, after which it was for the House to decide whether they would proceed to the other orders of the day.

Mr. GORDON inquired what they were?

Mr. HUBBARD replied that there were various bills lying on the table, and other business, which had precedence, unless the House should put them aside, for the purpose of going on with this case.

Mr. WAYNE concurred in opinion that this was the practice of the House.

The question being then taken on the motion of Mr. STEWART, to proceed to the orders of the day, it was negatived. Whereupon,

Mr. DICKSON rose and said, that, as the report of the majority had been read, he trusted that the House would admit that it was only just the report of the minority should also be read. He called for the reading.

Objections having been made—

Mr. BRIGGS said he was surprised that there should be any objection to the reading of the minority report, the other having been just read. He called for the yeas and nays on the question, whether it should be read; which having been ordered,

Mr. FILLMORE inquired if it was not a matter of strict right that the minority report should be at least once read when called for. The majority report had been read twice.

Mr. CAMBRELENG hoped that the objections would be withdrawn.

The reading of the report was finally proceeded with, and having been partly gone through, the further reading was dispensed with; after which,

Mr. BANKS, of Pennsylvania, said: Mr. Speaker, I have offered this amendment for the purpose of bringing to the consideration of the House the question presented by it. I thought that those questions being purely of a judicial character, it was but right that the House should settle them by a distinct and separate vote. I thought that, in presenting them in this way, they would be less complicated, and more easily understood. I also thought that their being presented in this way, and thus placed on our records, it would hereafter be more easily seen what we have done, and what principles we have settled. These are, sir, part of the considerations which induced me to offer this amendment. I shall, hereafter, offer other amendments so as to present to the House, in a clear manner, those questions which, I think, necessarily arise, and on the decision of which the final result in this case mainly depends.

Before I proceed to the discussion of the questions presented for our consideration by the amendment I have offered, I will make a few remarks as to some preliminary matters which are not at all foreign to these questions, in my judgment. By the third section of an act of the Legislature of the State of Kentucky, it is provided: "That the sheriffs of the counties in each district shall, on the fifteenth day after the commencement of the election, assemble at the places hereinafter designated in each of their respective districts, and then, by faithful comparison and addition, ascertain the person elected in their districts." It is also further provided by the fifth section of the same act, that, "after having ascertained, as before directed, the person elected, the sheriffs thereof shall make out a certificate of the election of the person in their district, which shall be signed by all the sheriffs of the district, and which shall be lodged with the sheriff of the county wherein the polls are compared, and by him, together with a copy of the polls, be transmitted to the Secretary of State." Harrodsburg, in the county of Mercer, was the place designated by the same act as the place at which the sheriffs were to meet, in this district, for the purposes which I have just stated. The sheriffs, or their deputies, of the several counties composing this district, did meet at the time and place designated for said purpose. When those officers were thus assembled, Alfred Hocker, the deputy sheriff of Lincoln county, proposed that they should go into an examination of irregularities, which, he alleged, existed in the polls of Garrard county. This proposition was objected to, and overruled by the other sheriffs then in attendance. Hocker, who appears to have been the devoted friend of Mr. Moore, being dissatisfied with this decision, left the board of sheriffs, taking with him the poll of Lincoln county, which he would not permit to be counted, and which was not counted. The vote in Lincoln stood 650 for Letcher, and 501 for Moore. By this conduct on the part of Hocker, Mr. Letcher had not the benefit of the majority, which he had in this county, of 149 votes over Mr. Moore. When this vote was taken from Mr. Letcher, the majority was for Mr. Moore. But giving this vote to Mr. Letcher, his entire majority was 49 votes over Mr. Moore. To this

vote Mr. Letcher was clearly entitled, which as clearly entitled him to a certificate of his election. A very brief examination of the law will show that the conduct of Alfred Hocker was illegal and unjustifiable.

The duties of the sheriff are very clearly defined by the statute which I have referred to. There is no uncertainty in the language employed, nor can there be any doubt as to the trust confided. Their duty is, "by faithful comparison and addition, to ascertain the person elected." Having ascertained the person elected, "they shall make out a certificate of the election of the person in their district, which shall be signed by all the sheriffs of the district." These are their defined duties. Beyond these duties, no power is conferred by the law. They cannot inquire into and decide upon the illegality of the votes received. They are to ascertain who is elected, by comparing and adding up all the votes actually received, and not by purging the polls, as if trying a contested election. No such duty is assigned to them; no such power is conferred upon them. The power is, by the constitution, reserved for another tribunal. They are to ascertain who is elected. How they are to ascertain this, is clearly set forth in the law. The voice of the public will is placed in their custody. They are by law commanded, at a specified time, to bear this evidence of the public will to a particular place, and, in the manner directed by the law, to ascertain what that public will is. Having performed these duties, their power is exhausted. These are the single and only objects of the trust. The poll books are placed in their hands for these purposes, and for no other. If they fail to perform them, the object of the trust is defeated. If the motives of Mr. Hocker were upright, it strikes me that the remedy he applied was most singular. He alleged that something wrong was connected with the Garrard poll; and, to correct this error, he withheld from the calculation the Lincoln poll, which was confessedly legal in all its parts. This, I think, was a most singular way to correct the error of which he complained. Let his motives be what they may, his conduct was altogether lawless. It admits of but little palliation or excuse.

In my judgment, the majority of the votes entitled Mr. Letcher to the certificate of election. The certificate, which was given for Mr. Moore, and forwarded to the Secretary of State, was not only irregular, but absolutely void. It was not signed by all the sheriffs. It appeared on the face of it, that all the votes given in the district were not compared and added up. It was proved that the Lincoln poll was withheld from the computation, in fraud of the law, in fraud of the rights of the electors of the district, and in fraud of the rights of Mr. Letcher. The certificate was signed but by three out of the five sheriffs in the district. It is a principle of law that we should presume that officers had done their duty, in absence of proof to the contrary. But this presumption cannot be made in favor of what is irregular on its face. Much less can it be made in favor of that which is found to have been done in open violation of law and public duty. Nor, in my opinion, does this certificate derive any additional force from the fact that it was sent by the sheriff to the Secretary of State, and that it has been forwarded here. This does not cure the defects. This gives it no additional authenticity. It was in the first instance void, and, in my judgment, is still void. I do not think that it entitled Mr. Moore to his seat, and I believe a large majority of the members of this House entertain the same opinion.

The production of a legal certificate entitles the person, in whose favor it is, to his seat, in the first instance: in the absence of this certificate, the polls are as high, if not the highest evidence of the person elected in the first instance, subject, however, to be impeached. The majority of votes actually given entitles the person to a certificate. If no certificate is given, then the majority of votes does entitle the person to whom they are given to his seat. Mr. Letcher should, then, in my opinion, be considered in this trial and discussion as in possession of his seat, and Mr. Moore should be held to prove that the majority of legal votes was given to him, and not to Mr. Letcher. This he should do by clear and satisfactory evidence.

This appears to be the obvious course which should be pursued. This put the parties in the position in which the electors of the district have placed them. Justice to Mr. Letcher, and a due regard to his rights, appear to require that this should be done. He is the person who received the majority of votes. This is evidence, in the first instance, that all who voted were legally qualified electors. It appears by the poll books, that Mr. Letcher had a majority of forty-nine votes.

I will now come to the consideration of the question presented by the amendment I have offered. The general inquiry will be, was the majority of the committee right in rejecting from the Garrard poll fifty-four votes, which were given to Mr. Letcher, and sixteen which were given to Mr. Moore? Whether the majority was right or not, depends upon the constitution of the United States, and the constitution and laws of the State of Kentucky.

By the 4th section of the 1st article of the constitution of the United States, it is provided that "the times, places, and manner, of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

By the 3d section of the 2d article of the constitution of the State of Kentucky, it is provided that "representatives shall be chosen on the first Monday of August in every year, but the presiding officers of the several elections shall continue the same for three days, at the request of any one of the candidates."

It is known to all that representatives to Congress are elected at the same time every second year in that State.

By a law of the State of Kentucky, it is made the duty of the sheriff of the county, every year, at least one month before the first Monday in August, to notify the inhabitants of his county, by advertisement, put up at the court-house door, of the time and place of holding the next election, and what offices are to be filled. It is further provided that the sheriff, or other presiding officer, shall, on the day of every election, open the poll by ten o'clock in the morning, and continue the same open until at least one hour before sunset each day, for three days successively, if necessary, or if any one of the candidates request it.

It is also provided that the county court shall, at their session next preceding the first Monday of August in every year, appoint two of their own body as judges of the next election, and also a proper person to act as clerk, who shall continue in office for one year. In case the county court shall fail to appoint, or the persons appointed shall fail to attend, or any of them, the sheriff shall, immediately preceding the election, appoint proper persons to act in their stead. The judges and clerk of the election, before they proceed to the execution of their duty, shall take the oath prescribed by the constitution. They shall attend to receiving the votes until the election is completed, and a fair statement made of the whole amount thereof; whereupon, the sheriff shall proclaim in the court-yard the names of the several persons then elected, and to what office. The persons entitled to suffrage shall, in presence of said judges and sheriff, vote personally and publicly, *viva voce*. Unless the sheriff, or one of the judges, shall know that the person offering to vote is entitled to vote, under the constitution, the clerk

shall administer an oath or affirmation to such person, so as to remove the doubts of the sheriff or judge.

The foregoing are substantially the provisions of the constitution and law, which are thought to bear upon the question which I am about to discuss.

The county court did appoint two persons of their own body judges, and a proper person to act as clerk of the election; one of the persons appointed declined serving, he having become a candidate for office. The sheriff, on the morning of election, attended at the place for holding the election, and appointed a person as judge, to act instead of him who had declined serving. Mr. Wheeler, not being there in attendance, who was the other person appointed by the court, the sheriff also appointed Moses Grant to act in his stead. It was then about nine o'clock. The sheriff then opened the election. The judges and clerk then appointed, having first taken the oath prescribed by the constitution, proceeded to receive votes and record the same. They thus proceeded until about ten o'clock, when Mr. Wheeler, the person appointed by the court, appeared. He was also sworn and took his seat, and Moses Grant retired. It appears that, at this time, twenty-two votes had been given to Letcher, and three to Moore. This is the irregularity on account of which part of these votes were stricken off by the majority.

The first question which presents itself is, had the sheriff a right by law to open the polls before ten o'clock? I entertain the opinion that he had.

It will be recollected that, by the constitution of the State, the "election is to be held on the first Monday in August, and to be continued for three days, at the request of any of the candidates." The people of that State have, by the constitution, reserved those days for this purpose. The constitution gives the three entire days, not fractions of days. This ought to be borne in mind as we proceed in this examination and discussion. This provision is clear and free from all doubt. What, then, is meant by the terms used, "that the sheriff, or other presiding officer, shall open the election by ten o'clock in the morning, and keep it open until at least one hour before sunset?" Is it that the election shall be opened precisely at ten o'clock, and that it shall be closed precisely at one hour before sunset on each day? Or, is it not that the election shall be opened not later than ten in the morning, and shall not be closed earlier than one hour before sunset in the evening? I believe the latter to be the true meaning of the terms used. It is the plain reading of the law. By ten o'clock, means not later than ten. This is its obvious meaning and plain import, and is so generally used and universally understood. The provision that the election shall be kept open until at least one hour before sunset, strengthens this construction. The law gives the least portion of time which shall be allowed to voters. It is mandatory upon the officers, that all the time between ten in the forenoon and one hour before sunset shall be allowed to the people to vote. It is not designed by the law to prevent the sheriff from opening the election before ten o'clock, nor is he prohibited from keeping it open later than one hour before sunset. He is to keep it open as late as an hour before sunset, and he is to open it as early as ten in the morning. He has no discretion left him as to closing the election earlier than an hour before sunset. He has a discretion as to keeping it open after that hour, and votes received at sunset, or even after it, would be good, so he has no discretion after ten o'clock. He may delay until that hour, but not later. This is the obvious intent of the law. He must not postpone the opening the election until a later point of time. He is not prohibited from opening the election at an earlier hour. There is nothing in the law from which this prohibition can be implied. The law comes in aid of the constitutional right of suffrage, and not to destroy or restrict it. It did not enter into the minds of the legislators, that they were abridging the time. Their object was to afford a full opportunity to all the electors to vote. This was the object of the provisions in the constitution and the law. We ought not to put such a construction upon them as will, in any degree, defeat this design. The right of suffrage is not derived from the law, but from the constitution.

It is not proved that the election was opened at so early an hour for any fraudulent purpose. The hour was not so early as of itself to imply an improper object. On the contrary, it is proved that the election was opened at nine o'clock, to enable the people to vote and go home. It is proved that the cholera had raged at that place to an alarming extent. It was feared that, if crowds should assemble, it might reproduce it. To avoid this, the election was opened early. The object was to afford a full and fair opportunity to all to vote; and thus preserve the people, as far as possible, from the dangers of disease and pestilence. In my judgment, the conduct of the sheriff was laudable. He did not abuse the discretion confided to him. He exercised it lawfully. He was imperiously called on, by the circumstances of the case, to give all the time he could, by the constitution and laws, to the people to exercise this high and important right. His discretion was used to accommodate the people and to preserve their health. This case shows the wisdom of the provision in the constitution and laws, in giving to the electors those days on which to vote. The sheriff would have been highly censurable, if he had refused or neglected to open the election at so early an hour, when called upon by such a state of things as existed at Lancaster, at the late election. Even in the absence of law, his conduct having been proved to be fair and upright, his motives wholly to accommodate the people, and all the votes given, with one or two exceptions, being legal, his opening the polls at an early hour would be justified from necessity; it was beneficial to the people, and did injury to none.

If the foregoing propositions be true, and that they are I do not entertain a doubt, the contingency had happened which legally called in requisition the power of the sheriff to appoint a judge in place of Wheeler, who was not in attendance. The judges are bound to be in readiness as early as the sheriff had a right to open the election; if they are not, the sheriff may then appoint; it is his duty to appoint; it is for the interest of the people that he should appoint, if there are people there desiring to vote. If he goes to open the polls, and finds that a judge is absent, he cannot open the election until he does appoint. If the people come to the election ground and find the election open, the sheriff of the county present, and the other officers, they may vote; and if it should turn out to have been a little before ten o'clock, I cannot bring my mind to the conclusion that this would vitiate the vote of an innocent and qualified elector. This appears to me to be too obvious to require any further comment. I do not see what effect Grant's retiring, and Wheeler's taking the seat, can have on the votes received by Grant. If the votes received by Grant were good as received, and when received, they could not be vitiated by his after conduct, or the conduct of any other. If the votes were good when given, they cannot but be good now. Wheeler was appointed by the court for one year. He appeared, by virtue of this appointment, and was qualified, and proceeded to do the duties assigned him. This was all right, and cannot affect, and does not affect, that which was done before he came there. I believe that the sheriff had power to appoint Grant as he did, and when he did: and that Wheeler taking the seat, and Grant withdrawing, does not, in any degree, tend to vitiate the votes of legally qualified electors.

On the second day after the election had been opened,

and some votes received, the sheriff, after having been twice sent for, on account of the sudden and extreme illness of his wife, who died soon after the election, left the polls with the consent of the judges. He had no regularly appointed deputy present. He requested a young man of respectability, who was present, to attend with the judges; and, with their consent, he did attend for some time, and then gave place to another gentleman, also of high respectability, to attend. The judges agreed that he should attend with him, and he did so, until the regularly appointed deputy appeared, and attended to the election. During this temporary absence of the sheriff, thirty-two votes were given for Mr. Letcher, and thirteen for Mr. Moore. The majority of the committee rejected these votes. I do not think that these votes should be stricken off.

On turning to the law, it will be seen that the right of the sheriff to judge as to the reception or rejection of votes is not very clearly asserted. I am inclined to the opinion that he has no such power; if he has, it is certainly not very precisely stated. The enactment is, "that the judges shall attend to receiving the votes until the election is completed, and a fair statement made of the whole amount thereof; whereupon, the sheriff shall proclaim, in the court-yard, the names of the several persons then elected, and to what office." This would appear to make it the duty of the judges to receive the votes. It does make it their duty. The judges are to receive the votes, and to make out a statement of the amount thereof. If it is made the duty of the judges to receive the votes, they must necessarily judge of the rights and qualifications of the voters. This latter duty is necessarily embraced in the former. It is made the positive duty of the judges to attend to receiving the votes; they are the persons designated by law to perform this trust; to them is given all the power necessary to perform it. In this grant of power and designation of persons the sheriff is not noticed; he appears to have been intentionally omitted. It is the duty of the judges to make out a statement of the amount of the votes. Here, again, the sheriff is omitted. It appears reasonable that the persons who receive and record the votes should make out the statement of the amount thereof; hence we find this duty assigned to the judges. After the votes are all received by the judges, and after the statement is made out by them, then the duty of the sheriff begins. The law then says: "Whereupon the sheriff shall proclaim, in the court-yard, the persons then elected, and to what office." Here, then, we have, not only in the same act and in the same section, but in the same sentence, these several duties thus distributed. The distinction in the grant of power is plain and obvious.

It is provided by the constitution that members of the General Assembly, and all officers, Executive and Judicial, before they enter upon the execution of their respective offices, shall take the oath which is prescribed therein. The judges and clerk are required by the law, before they act as such at the election, to take this oath, although the judges may have taken it before as justices of the peace. The law requiring that this oath shall be taken by the judges, (and not by the sheriff,) although they may have taken the same oath before that the sheriff has taken, is a circumstance not without weight in this matter. It is provided that "The persons entitled to suffrage shall, in the presence of the said judges and sheriff, vote personally and publicly, *viva voce.*" This is directory merely as to the manner in which the elector shall vote. It is not intended that this clause should confer power or impose obligation upon the sheriff. The sheriff could not draw any power from this provision. It is confined to the manner in which the vote shall be given, and is only directory as to this; and, as I said before, does not give the sheriff power to decide on the qualification of the voter; nor does it create an obligation on the sheriff to be present at the time of the election. It is made the duty of the sheriff to open the polls on each morning of the election, and to close them on the evening of each day.

It is also his duty to proclaim, at the close of the election, the persons elected, and to what offices. He is a high peace officer, and, as such, his presence might be necessary to preserve order, so that the election might be conducted with good order, and that an opportunity might be afforded to all the electors to vote, without disturbance or tumult. He is also a public man, whose authority would be acknowledged and respected, and is supposed to be well acquainted in the county, and able to communicate information to the judges as to the qualifications of those offering to vote. These are duties which are required of him by the law. His presence appears to be necessary for these purposes; and hence it is said that the votes "shall be given in the presence of the judges and sheriff." It ought to be presumed that his presence was required for the purpose of discharging the duties clearly enjoined on him by the law. These are duties which the law manifestly imposes upon him. It is inferred that he will attend to perform them. We ought not and cannot legally attach higher importance to his presence, during the election, than the law has attached. The votes taken in the absence of the sheriff are all proved (with, I believe, one exception) to have been given by qualified electors. The sheriff, if he had been there, would have had no duty to perform. No question was made as to the right of any one to vote. All who voted would no doubt have been permitted to vote if the sheriff had been there. It would, indeed, be a most rigorous rule of law that would now adjudge that those votes, thus taken, should be stricken off. I trust no such rule will be applied by this House. I then entertain the opinion that the presence of the sheriff was presumed, for it is not enjoined, to perform those duties which are designated by the law as pertaining to him by virtue of his office. In my judgment, it is the exclusive duty of the judges to attend to receiving the votes. This grant of power is clear, explicit, and positive. The right to judge of and determine upon the rights of those offering to vote is most clearly intrusted to the judges by virtue of this part of the law. The terms used naturally confer this power and impose this duty upon them. The sheriff is not included in this grant of power and designation of persons and duties, and his presence is not essential to the legality or validity of votes. This is my opinion.

But suppose, Mr. Speaker, that I am in error in the views I have taken, and the opinions I have advanced, then a very important question is presented to the consideration of this House. How far ought those irregularities, on the part of the officers of the election, to affect the rights of legally qualified voters? This I deem a question of the highest importance to the people of this country. The right of suffrage, which is a great constitutional right, a right which lies at the foundation of our Government, a right which is above price in the estimation of the people of this country, is deeply interested in the decision of this question. I deem it of the greatest moment that this right of suffrage, which is to be exercised by the people themselves, should be preserved in purity, and should be guarded by wisdom and integrity. If there is any one right which is more valuable than all other civil or political rights, it is this right of suffrage; it is the authority and voice of the people themselves. If this right is usurped or annihilated, the sovereignty of the people is impaired and the constitution violated.

In discussing this question I shall not detain the House long; all I say shall be direct to the question presented. The right of the citizens to elect their Representatives to

Congress, I have already said, is a great constitutional right. The law of the State does not give this right. It is a right paramount to the laws of the State. It is a right which, being secured by the constitution of the United States and the constitution of the State of Kentucky, is above legislative authority. The laws of the State did not grant or create it, and, therefore, cannot impair or take it away, either by direct or indirect legislation. This ought to be borne in mind in our application of the law to the facts in this case. The law of the State only prescribes forms, and establishes guards, the more effectually to secure this right, and its uninterrupted enjoyment, to the people. The people of the State of Kentucky do not choose the judges of the election. They are appointed by the county court. The people have no direct agency in their selection. The people go, at the time fixed, to the place of holding their election, and find the sheriff of the county, a known public officer, assisted by two judges, and a clerk, either appointed by the court or by the sheriff, in the discharge of their duties as officers of the election. I ask, are they to look further? Is it their duty to look further? Is it incumbent on them to look to the time of day, or to the manner or time in which the officers were appointed? I cannot bring my mind to the conclusion that it is at all incumbent on them to look into the title of the officers. I think I have been successful in showing that Grant, at least, came into office under color of authority, and that he was an officer *de facto*, if not *de jure*. He was called to the office by the person having the power to appoint, and was sworn as an officer of the election before he acted as such. I deny, most positively, that it is or ought to be incumbent on the citizens of Kentucky to see that all the forms of law, in regard to these preliminary matters, have been observed to the letter. The people do not hold this paramount right—this right which is the foundation of all law, and without which there cannot be any Government in this country—by a tenure so frail and precarious. It never was intended that the freemen of Kentucky should be perilled in their right of suffrage, either by the negligence, ignorance, or fraud of petty officers. If they even thought that the officers were not proceeding with regularity, they have no power to correct or remedy it. Officers generally feel the dignity of the authority with which they are clothed, however small it may be. They would not, probably, change their course, if requested so to do. Thus the people have no alternative left but to vote or to go home without voting. They might, to be sure, go home without voting, but this would be defeating an election altogether, and would totally deprive the people of the right of suffrage.

Sir, the great inquiry ought in all cases to be, was the election free, full, and fair, on the part of the voters? If it was free, full, and fair, I would take it as the expression of the public will—as the voice of the people legitimately made known, and which I hope I will never disregard. This will is too dear to freemen, too sacred to the American people, to be stifled or lost in form. This will is the substance of the election—the form is but the shadow. I go for the substance—I go for the votes of freemen, regardless of mere form. I care not for the shadow. This will of the people, as communicated by their votes at the polls, is the essence of every election. Yea, more, it is the election itself; and ought not, and cannot be controlled by mere form, without destroying our republican form of government. Who are these petty officers, that are worked up into such mighty importance? They do not make the election. They are but instruments appointed by law merely to receive the suffrages of the people. The great and paramount right consists in the act of voting. It is the voter who speaks. The voice and act are his; and to this act alone should we look, and by this voice alone should we be guided. To this act will I look, to this voice will I listen; and never, no, sir, never, will I permit either the mistakes, negligence, or fraud, of inferior officers, to alter or annihilate this act of the voter, no matter how humble and retired his situation in life may be.

The right of suffrage in the hands of the people is the all-controlling power in this Government. If this right is to be lost in the mistakes, negligence, or fraud of officers, what will the consequence be? You at once take off all restraint upon ignorance and negligence, and give full license to corruption. If you do this, you at once uproot and overturn all their constitutional safe-guards which can alone secure the people in the enjoyment of their right of suffrage. How do individuals now find their way into this House? The old-fashioned and common way with us is by getting a majority or plurality of votes. This is the way which I prefer. But, establish the principle contended for, and what rule do you then adopt? Members will then find their way here, not by the legitimate call of the people, but through the ignorance or treachery of some petty officer. Is not this putting the case fairly? I do conceive that it is nothing short of this. Whenever you establish, as a governing principle, that the errors and omissions of officers shall control the acts and voice of the voters, you do in effect establish the principle above stated. Men would then find their way into office, not only without the votes of the people, but against the votes of the people. When the people have spoken and made their choice, their voice is to be disobeyed, and their choice rejected. The people of this country never intended that the elective franchise should be made subject to this want of form or abuse on the part of county or township officers. The great question, as I have before stated, ought to be, was the election full, free, and fair? Had those who voted a right to vote, and did they vote in time and manner as directed by law on their parts? If they did, I would give effect to it. The right of suffrage is too precious to be subject to such refinements and technicalities. This is the only rule which will preserve our republican form of Government in purity. The majority must rule. The person who has the most legal votes is elected.

The fact that the people themselves, at the time, thought those irregularities, as far as they had been apprized of them, of no importance, has great influence upon my mind. Two judges, publicly appointed in the way pointed out by law, presided, assisted by a legally constituted clerk, and attended by the high sheriff of the county. The people of all parties, and all the candidates, thought, at the time, all was right. The election was public, and the citizens, who were the substantial agents at the election, carried it on without any distrust that it was wrong. They did not entertain a doubt, at the time, of its validity; no objection was made by any one; the people voted for the candidate of their choice; they believed that they were legally and efficiently exercising their rights; no murmur was heard for near two weeks; no inconvenience was felt at the time. All had an opportunity to vote and did vote. I cannot now think that all this, thus solemnly and deliberately done by the people, is to be set aside by the application of a rule rarely resorted to in criminal proceedings. I regard the opinion of the people. I take for granted that they have some knowledge of the law and their rights. They did not think that any injury or injustice was done them; nor do they think so now. They do not now complain; the complaint comes from a candidate, against whom the majority of the votes was given. I do not think those objections ought to prevail. They ought to be considered as waived by the people, who are the real parties in this transaction. It is for the interest of the public, and the rights of the electors require, in my judgment, that they should be so considered.

Then, to conclude on this point, I do not think the presence of the sheriff so material that the votes of legally qualified electors should be rejected because he was temporarily absent. I think that Grant was at least an officer *de facto*, and that his acts, as such, were most clearly good. The law, with regard to the acts of *de facto* officers, is perfectly well settled. It is a rule that is founded in justice, and has been approved of by the experience of ages. The rule is as old as our law books. The rule is, that all the acts of such officer are good, so far as regards the rights of the public or third persons. The office is void as to himself only. This rule is well understood in Pennsylvania. Even when rights are divested, through the agency of officers, this rule applies with all its force. If that be so, why should it not be so here? The rights of no one are affected by allowing the votes of these men. Mr. Moore has no right to complain. He ought not to come into office against the votes of the people of the district. The votes which he attempts to strike off were all given by legally qualified voters. They voted against him. The electors have, in fact, chosen Mr. Letcher. He is their choice; no one doubts it; he ought, therefore, to be their representative; they have said so. I regard their voice, and, as far my vote will go, I will give effect to it. I think the rules I have laid down are the only safe ones. I think they conform to the great and fundamental principles upon which the right of suffrage is founded. I think that they are the only rules which will promote and secure the high ends contemplated by the people themselves in framing their constitution; and that the one contended for by the majority of the committee completely nullifies the right of suffrage

The majority of the committee have referred to some decisions in cases of contested elections as sustaining the decision which they have made. I will answer one or two of those cited. The first which I will notice, is the case of Duncan McFarland *vs.* Samuel D. Purviance. This case was from North Carolina. On the 29th of February, 1804, the Committee of Elections made their report, which was referred to a Committee of the Whole House, who, on the 6th of March, 1804, were, on motion, discharged from the further consideration thereof, and the subject appears not to have been acted on again during that session of Congress. At the succeeding session of Congress, Duncan McFarland again presented his memorial, praying that the House would take into consideration and ultimately decide upon the subject-matter of his memorial. This new memorial was referred to the Committee of Elections, but it does not appear that any report was ever made thereon. No decision was ever made in this case by Congress, and I am at a loss to know of what authority it can be. It is of no authority, and I cannot perceive for what purpose it was cited.

I will notice one other case, and, if I am not much mistaken, it will turn out that the majority were equally unfortunate in citing this case. If I understand the case, it is an authority directly against the position which they have taken, and one which fully sustains the principles for which I have been contending. It is the case of Rufus Easton *vs.* John Scott, delegates of Missouri Territory. In this case, the committee decided that, as it was required by law that the election should be held by three judges, who were to be sworn, and that two persons acted as judges, and were not sworn; that, as the law required that two persons should act as clerks, who should be sworn, and but one acted as clerk, who was not sworn; that the votes taken by those persons, as officers of the election, were illegal, and should be rejected. The committee also made other decisions which I need not take time to state. When this report was before a Committee of the Whole House, on the 3d of January, 1817, Mr. Webster opposed the report of the committee on the ground of its being predicated only on illegality in a separate election, without entering into an examination of the qualifications of the voters generally; and moved the recommitment of the report to the Committee of Elections with instructions to receive evidence that the persons voting for either candidate were not entitled to vote on the election. The vote being taken on this motion to recommit, it was decided in the affirmative. Here, then, is the principle decided which I contend for. The report of the committee was founded on irregularities on the part of the officers or persons holding the election. The committee had rejected votes, because that they had not been received by the number of officers required by law, and because that those persons had not been sworn. This was their report, and for these reasons votes had been rejected. The committee had not extended their examination to the qualification of the electors. What does the House do?

The report is recommitted, not generally, but with definite and particular instructions "to receive evidence that persons voting for either candidate were not entitled to vote at the election." The recommitment was for this single fact; this was all that the House wanted. The House thus determined to confine them to the single fact whether the voters were legally qualified. The House refused to decide without this inquiry was first made. This was considered the all-important question. It shows clearly that those irregularities were not sufficient to vitiate the election in the opinion of that Congress, and let in the minority candidate. No principle can be more clearly asserted, nor can any decision be more directly in point. The committee afterwards reported to the House that evidence could not be procured, so as to enable the committee to investigate the qualifications of the electors during the present Congress, and asked to be "discharged from further investigation into the qualifications of the said electors." Finally, a new election was ordered. It plainly appears in the case, that, if the votes which were thus irregularly taken were rejected, Rufus Easton would have been entitled to his seat. Those irregularities were clearly made out, yet that Congress would not suffer this to be done. It appeared to be the opinion of members then, as it is mine now, that no individual should be permitted to take his seat against the majority of the votes of his district. I do not see how any man can ask, or expect to be permitted, to represent the people, not only without, but against their voice; not only when they have not chosen him, but when they have in fact chosen another to represent them. This, in my judgment, is any thing but republican in principle. It is at variance with the genius of our free institutions. I have said all I intended to say on this part of the case, and at present will not remark upon those questions which I propose, in the further progress of the case, to present to the consideration of the House.

When Mr. Banks had concluded—

Mr. JONES, chairman of the Committee of Elections, rose in reply, and went at length into a defence of the report of the committee: citing precedents from analogous cases decided by Congress, and insisting that they bore out the committee in the grounds they had taken.

Mr. MARSHALL followed, in opposition to the committee's report, and had proceeded some length in examining the precedents quoted by the committee, when he gave way to

Mr. C. ALLAN, who moved an adjournment; but withdrew the motion to allow opportunity for the reference of the Senate bills; after which,

The House adjourned.

Wednesday, May 21, 1834.

KENTUCKY CONTESTED ELECTION.

The report of the Committee of Elections upon the

contested election between T. P. Moore and R. P. Letcher, being the unfinished business of yesterday, came up immediately after the Journal was read.

Mr. MARSHALL resumed his speech in opposition to the report, and in favor of the amendment moved by Mr. BANKS, which proposed to declare that the votes taken at Lancaster, in Garrard county, before the hour for opening the polls, and in the absence of the sheriff, shall be counted. Mr. M. stated the general principles and adjudged cases, as well as the peculiar facts relative to this election, and contended at length that the amendment should be adopted. After speaking two hours, he was followed by

Mr. CLAYTON, of Georgia, who rose and addressed the Chair as follows:

Mr. Speaker: Although I feel some anxiety to offer a few reflections to the House on this question, yet I am much discouraged by the great apathy which has prevailed during its previous discussion. Can it be possible the case is prejudged? If so, I cannot flatter myself that I shall gain the attention of members, nor indeed ought I to look for it, after witnessing the indifference manifested towards those who have gone before me, and who were much better prepared to enlighten the House than can be expected from me. Nevertheless, I am urged, by a sense of duty, to this ungracious task, relying upon the hope that, as ours is a Government regulated by public opinion, I may be listened to in another quarter, though, in this place, I fail in that desirable object.

Mr. Speaker, I had calculated that this subject would excite a deep interest. I had looked to this investigation as one necessarily fraught with intense concern. What is it? I consider it nothing short of the question, whether ours is in truth a representative Government; whether the great and often-boasted privilege of suffrage in this country is any thing but a name; in fine, whether the right to choose the representative belongs to the people or to this House? Sir, can any question be more important? It outstrips all others in its consequences, because all others are made to depend upon the true depository of this immense power. The case, then, presents itself under a twofold aspect: first, in reference to the rights of the people; and, secondly, in relation to those of the contending parties. In this last view, we are called on to exercise a judicial function, to pass a judicial judgment; and this is a character so pure, so elevated above all the impulses of passion and feeling, that we should approach it with the utmost desire to ascertain the justice, and nothing but the justice, of the case. We should consider ourselves as sitting in the character of judges or jurors; and, if suitably impressed with their high responsibility, we could not remain inattentive to the argument of a cause involving such grave and delicate rights. What would you think of a judge who should read newspapers all the time of a legal discussion? What would you think of a jury who were permitted to pass in and out from their box during the investigation of a case in which they were finally to pass upon the important rights of the parties? Shall we, then, exact, in another tribunal, if not from a sincere consciousness of propriety, at least in respect for decorum, an impartial and attentive hearing; and yet, in a similar capacity ourselves, manifest a total indifference to all such obligations? I hope not.

I shall first call the attention of the House to this provision of the constitution. It is the first step in the authority upon which they take jurisdiction of the case. "Each House shall be the judge of the elections, returns, and qualifications of its own members." I pass from this to another provision, upon which the contested election before us is to be judged. "The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof." In the application of this provision to the case in issue, we shall be able to narrow down the question to the simple consideration of the "manner," for about the "time" and "place" of "holding the election," there is no dispute. It is now reduced to a mere point. Before I proceed to the argument, I must state the principles which should govern this body, in judging of the elections brought before it for decision. I lay down this position, that, as the right of suffrage is a common right, involving the highest attributes of liberty, all laws regulating its exercise should be construed liberally, and the utmost latitude allowed to give effect to the right, provided it produces no injury to the people to whom it belongs, or to the parties it designs to invest with a trust. We should the rather constitute ourselves into a court of equity, to do what the law would have done, if it could have foreseen the mischiefs, than into a court of law, to decide the case according to strict technicalities. Neither should we be governed by the subtleties of special pleading, much less the arts and refinements of quibbling minds. We should not consider ourselves as trying a case for a horse or a loom, in which the ingenuity of the learned profession wastes itself in shifts and quirks, and is better satisfied with its triumphs when they are obtained by tricks. This election is contested upon two grounds: 1st, a non-compliance with the law of Kentucky, regulating the "manner" of holding the election; and 2dly, the reception of illegal votes. The first is, for the present, the only subject for consideration, as the amendment of the gentleman from Pennsylvania brings that point alone into view. No State can legislate in relation to the holding of elections, under the provision of the constitution last quoted, but as to time, place, and manner—any thing beyond these is void, and has been wholly disregarded, as appears by several decisions, but especially in the case of Meade and Spalding. The State of Georgia, in its election law, had required that the returns of the election should be made in twenty days. It appeared that, within the twenty days, the returns had given Meade the highest number of votes, and the governor accordingly gave him the certificate of election; but it also afterwards appeared that, upon the coming in of further returns, after the twenty days had expired, Spalding was elected--and, upon contesting the seat, obtained it without any difficulty. I refer to this case to establish the position, that any legislation of a State, out of the time, place, and manner of holding the election, is of no manner of obligation upon this House. With regard, then, to the "manner" of holding the election, (for this, as I stated before, is all that we have now to consider,) we must carefully distinguish it from the qualification of voters. Qualification is one thing; manner is another. The first relates to the individual right of the voter--the other in giving effect to that right. If he votes without qualification, the vote is void, and will be expunged without prejudice to the other legal votes. If he votes with qualification, but contrary substantially, not formally, to the "manner" of the election, as directed by law, then the election is void, not in part, but wholly, for a breach of the law must affect all parties alike; it cannot enure to the advantage of one, and the injury of another, because it is not the fault of one more than another.

This brings us to the consideration of the election law of Kentucky, which specifies the "manner" in which elections shall be held in that State. It enacts that the sheriff of each county shall advertise, at least one month before the first Monday in August, in every year, the time and place of holding the election, and what offices are to be filled; and that the sheriff, or other presiding officer, shall, on the day of election, open the poll-book by ten o'clock in the morning, and continue the same open at least one hour before sun set each day. It directs the county court of each county, at their session next preceding the election, to appoint two of their own body as judges of the election, who are to hold their offi-

ces for one year, and a proper person to act as clerk; but in case the county court should not appoint, or any of the persons appointed should fail to attend, the sheriff shall immediately preceding any election, appoint proper persons to act in their stead. It requires the judges of election and the clerk, before proceeding to act as such, to take the oath prescribed by the constitution; and expressly declares that "they shall attend to receiving the votes until the election is completed, and a fair statement made of the whole amount thereof;" and requires that "the persons entitled to suffrage shall, in the presence of said judges and sheriff, vote personally and publicly, *viva voce.*" Unless the sheriff, or any one of the judges, shall know the person offering to vote to be entitled to suffrage, the clerk is directed to administer to him the oath that he believes he is twenty-one years of age; that he has resided two years in the State, or in the county one year last past, and that he has not previously voted at that election; or one or more parts of the oath may be administered, so as to remove the doubts of the sheriff or judge. This is the manner. Now, it is said by the Committee of Elections to have been violated in two particulars. 1st. That on the first day of the election the sheriff appointed a person to act in the place of one of the judges appointed by the court, who had not arrived; and proceeded to open and hold the election before 10 o'clock, to wit: at 9 o'clock, many of the voters being assembled who, in consequence of the prevalence of the cholera, were anxious to vote and return home. At 10 o'clock the judge appointed by the court appeared, took his seat, and the sheriff's judge retired. It is contended that all the votes given before 10 should be rejected; twenty-five had been polled, twenty-two of which were for Mr. Letcher; consequently they have taken three from Mr. Moore's poll and twenty-two from Mr. Letcher's. 2dly. On the second day of the election, the sheriff was called home by the extreme illness of his wife by cholera, of which she died, and he appointed an individual to take his place till his deputy could arrive, which was in the course of one or two hours. It is also contended that all the votes given in between the absence of the sheriff and the arrival of his deputy should be rejected. It seems forty-five had been taken, thirty-two for Mr. Letcher and thirteen for Mr. Moore. These two operations make a difference in Mr. Letcher's majority, originally forty-nine, of thirty-eight votes, and will consequently reduce it to eleven. These eleven and more are afterwards reduced by illegal votes, thirteen of which are rejected because they were students of a college, situated in the district, whose parents lived out of it, and therefore it is contended their residence was not such as to entitle them to vote. This point not being before the House at present, I shall reserve my remarks upon it for another occasion. It appears that seventy legal votes, against which there is no manner of objection, have been rejected because of an alleged informality in holding the election.

Mr. Speaker, I shall contend that there was no informality, and if there was, it is not of a character to be regarded; and further, that even if it ought to be regarded, it is not such as to have produced the conclusion to which the committee have arrived, viz: to make it operate to the prejudice of one and to the profit of the other of the candidates. If it vitiates the election to any extent it must to the whole. Sir, there was no informality; the law was substantially complied with. Let us consider the first objection as to the opening of the election. The sheriff is to open the election by 10 o'clock, and to keep it open until at least one hour before sunset. Need I enter into a criticism upon words to show that *by* does not mean *at?* Will any one contend that the words of law both as to the time of opening and closing the election does not confer upon the sheriff a discretion? May he not begin before ten, and continue the election after the hour before sunset? If the expression *by ten* means precisely *at ten*, then he has no discretion; but if, according to the plain common-sense, popular meaning of that language, (independent of the strong circumstances standing in connexion with it, such as the discretion given him as to the time of advertising and closing the election,) it imports, as is often used in the business transactions of men, *on or before ten*, then he has a discretion, of which he cannot be deprived. But it is said this construction deprives the judge appointed by the court of his right to preside, and having until ten to signify his pleasure to do so or not, the sheriff is bound to wait till that hour before he exercices his right to appoint a judge, under the law, and proceed to the election. Now, sir, the fair construction of laws, or contracts, is to make all their seeming inconsistencies stand, if possible, to give effect to its contradictions, if it can be done without manifest injury to its true spirit, object, and intention. Who does not perceive that this can be done, and done with the utmost propriety, in relation to this law? The Legislature were regulating the exercise of a great right of the people, and as their immediate representatives, in which they were as deeply concerned as their constituents; it could never have been their intention so to trammel and fetter this great interest as that the slightest misconstruction of their object should defeat the right. They had as much confidence in the sheriff, and the judge to be appointed by him, as they had in the county court, and the judges to be appointed by them. They were both designed to facilitate and give effect to the great right of suffrage; and when they were guarding against certain contingencies which might prevent an election, they never dreamed, nay, they could not, that this very caution would be the means of defeating their own privileges. Could they have any such inducement to place their rights, the most inestimable of all rights, without which all others are nothing, in such a situation that their exercise could only be attained by the most vigilant circumspection, as well as the most careful and accurate legal learning? It cannot be believed. Then what is the reasonable construction of this law? That specific limits should not be prescribed as to time, in conducting the election so as to impair the limitation of three days allowed by the constitution of Kentucky, in which the election is to be held. The time contained in that instrument no law could shorten; and though, from necessity, the whole could not be enjoyed, yet doubtless the Legislature, intending to afford the voters as much of it as possible, were anxious not so much to abridge as to prevent the sheriff from doing it; and hence it will be perceived, in every instance, where he had any thing to do with it, he was required to lose as little as the nature of the case would admit.

It was more an enlarging than a restraining consumption of the three days, and every one must see the real mischief to be apprehended, was the waste rather than the use of the allowed time. For if the people in their convention had believed three days necessary to a given object, they cannot in their legislation be supposed to be so idle as to deprive themselves of it even if they could; and, therefore, in the true spirit of the constitution, the legislation promoted rather than restricted the grant. Under this view the fair construction would be this: says the law the election must be opened by 10 o'clock; beyond that time the sheriff must not go; but before that time we give him a reasonable discretion (as is all legal discretion) to begin the first day's work. We have, to be sure, authorized the county court to appoint two judges to superintend it; they, however, have a full knowledge that we have also granted to the sheriff the power to open the election before ten, and, in case of a failure to attend on the part of the court's judges, we have authorized him to appoint judges in their stead. Now, if at a reasonable time before ten, the voters wish to commence the election, where is the possible injury that can result to

the exercise of their right, by telling the sheriff to appoint his judges under the law and proceed to business? When the judges appointed by the court shall arrive, and claim, by virtue of their appointment for a year, the right to conduct the election, where is the harm to suffer them to take the place of those chosen by the sheriff, who, in the language of the law, in consequence of their failing to attend, is required immediately preceding the election to appoint proper persons to act in their stead?" This construction enables the rights of all parties to stand, as well those of the sheriff and his judges, as the court and their judges; and all being officers equally trustworthy, and constituted by law as the machinery to effect a great public object, no election can or ought to be distrusted which has been held under its agency. The construction insisted upon by the committee leads to this singular absurdity: they say the sheriff must wait till 10 o'clock, before he can appoint his judges, lest the other judges might come and claim their right: then who does not perceive they require of him to do two things in the same instant of time? According to law, he must not let 10 o'clock pass; if he does, he violates the law. According to the committee, he must not appoint his judges till ten; therefore, if at that precise moment of time he does not proclaim to the people that the election is opened, and also call upon proper persons, who are to be sworn before they can act, to serve in the place of the absent judges, he evidently fails in his duty, so that an impossibility is required of him. If, therefore, he can appoint five minutes before ten, the point is yielded; for every one must admit he can sixty. If he waits till after ten, the election is contrary to law. I only mention this to illustrate how unsafe, if not ridiculous, it is to suffer ourselves to be governed by a little, contracted, narrow, lawyer-like principle of construction, in giving effect to laws designed to execute great political rights.

Sir, such a rigid construction will defeat nine-tenths of the elections throughout the United States. I will show that not a member from Georgia can hold his seat under this black-letter rule. The law of my State is in the following words: "All elections for members of the General Assembly, and for Representatives in Congress, shall be held at the court-house, or place appointed for holding the superior courts in the respective counties, and the electors thereat shall vote (now) by ballot. It shall be the duty of any three or more of the magistrates of each county, not being candidates, to preside at, and make returns of, all elections for Senators and Representatives in the General Assembly, and Representatives in Congress; and the sheriff of each county, or his deputy, is required to attend at such elections, for the purpose of enforcing the orders of the presiding magistrates, and preserving good order." And again, "the presiding magistrates are empowered and required to appoint three clerks to attend said elections, whose duty it shall be to keep three rolls." The law is express that "the time of opening the elections shall be at the hour of seven o'clock in the morning, and be kept open until the hour of six in the afternoon, and then close." Now, sir, I appeal to every member from Georgia to say whether it is not the constant practice of our magistrates and clerks to change places throughout the day, with others who come to relieve them in the labors of the occasion; and whether we ever open our elections till eight or nine o'clock. In what does this differ from the Kentucky law? Only in the mode of appointing the superintending magistrates. The Georgia law makes the appointment itself, the other authorizes the county court to do it.

Their duties are the same, and, though expressed in different language, precisely the same services are required. The Kentucky law requires the county court to appoint two of their own body as judges of the election, and a proper person to act as clerk. The Georgia law appoints any three or more of the magistrates of each county, to preside at and make returns of all elections; and empowers them to choose their own clerks to "attend said elections" and keep the rolls. The words "any three" has reference to the body of magistrates in the county, being generally from twenty to thirty, and not to the idea of alternation at the election. The Kentucky law means no more, when it says two of the body of the county court shall be the "judges" of the election, than the Georgia law when it declares that three of the body of the magistrates of each county shall "preside at" and "make returns of all elections." "Preside" means all that is conveyed by the word "judges." The Kentucky law requires that they shall attend to the receiving of the votes, until the election is completed, and a fair statement made of the whole amount thereof." The Georgia law means precisely the same thing when it directs its magistrates to "preside at and make returns;" for they cannot do this unless they remain there during the whole election, which is to be from seven to six o'clock. To preside at, and make returns, "they" must receive the votes "and continue until the election is completed." And when it is urged that a Kentucky magistrate cannot make a fair statement of the whole amount of the election unless he remains there all the while, I answer, a Georgia magistrate cannot "make a return" of the election unless he does the same thing, for he can no more certify for the different magistrates who have presided before him throughout the day than can the Kentucky magistrate. And so with regard to the clerks who are required to keep the rolls. Our law requires the sheriff to attend the election. For what? To enforce the orders of the presiding magistrates, and preserve good order. He is a ministerial officer; he has no right to exercise any judgment in the election; he may be called on to give testimony as to the qualifications of voters. Unless the sheriff is expressly clothed with judicial power by some law, he is always a ministerial officer, and therefore his presence is not always necessary in any tribunal where he may be called to act. Where he is to exercise his judgment it may be necessary, but where he is to act ministerially or to testify, he is not necessarily obliged to be present till the occasion arises which makes it needful; and hence the sheriff at our elections, and indeed at all courts, is frequently absent till an occasion demands his ministerial services. By the election law of Kentucky his ministerial character is not changed. His duties, then, are precisely the same as the Georgia sheriffs; they are ministerial, with the superadded character of being a ready witness to detect illegal voters if it should become necessary; and this does not imply an absolute necessity to be always present. I repeat, he is no judge; to open, close, and proclaim the election, to keep order and testify as to the qualifications of the voters is all that is required of him by the law. While the judges and clerk appointed to preside are sworn, the sheriff is not. He passes no opinion with the rest of the presiding officers in any matter of dispute. The judges may admit a vote even after he has given information that, in his opinion, it is illegal. If he acts any where in Kentucky as a judge, it is by permission; for he has evidently no such power by law. It is only by contending that he is a judge, that you make his presence necessary, and this character is merely inferred from two expressions in the law, viz: "that the sheriff or other presiding officers shall open the polls," and that "the voters shall vote in the presence of said judges and sheriff; and unless the sheriff or one of the judges shall know the person offering to vote to be entitled to suffrage, the clerk is directed to swear the voter," &c. Now, from these two clauses it is inferred that the sheriff is made a judge of election. Are gentlemen aware of the consequences of making the sheriff a judge? Judges cannot make deputies. The moment he loses his ministerial character he is unable to make a

deputy; and according to the strict construction contended for, a deputy cannot act, because the election law does not authorize him to do so; besides, if a deputy could act, it must be done as a sheriff under this same law, and then he also becomes immediately a judge, and, consequently, this court could have no sheriff in whose presence the voters shall vote. His absence, therefore, on the second day, ought not to operate such an injury to the legal voters as to deprive them of their elective franchise. My worthy colleague, in his argument yesterday, confounded the personal qualifications of voters with the requirements of the law, as to the time, place, and manner of holding elections, and said if you can reject the vote of a person under twenty-one years of age, because the law has required him to be of that age to entitle him to vote, you can reject a vote where the law has not been complied with in regard to time, place, and manner. Now, as I stated before, there is a clear and manifest difference between the qualification of the voter and the means provided by law to give effect to his vote. In all the transactions of life, whether in a civil, moral, or political point of view, when we are called on to act as responsible agents, the intention, the *quo animo*, constitutes the very essence of accountability. A man may commit the utmost atrocities, such as homicide, house-burning, nay, he may flay another alive, yet, if he be destitute of reason, he commits no crime: this is a principle that runs through all human actions, and all our decisions intended to promote and advance the well-being of society proceeds upon the quality of the motive that has given rise to the act. Will it be said that the man who goes to an election with a full knowledge that he is not twenty-one years old, and who, consequently without right, votes contrary to law, is to be placed upon the same footing with the legal voter, who votes ignorantly as to the authority of the magistrate or sheriff, to receive his vote? If the law had considered them in the same situation, it would, when it required the judges to swear the voters as to their right of suffrage, have provided a similar oath to be administered by the voters to the presiding officers as to their official qualifications.

This is obviously the effect of the rigid construction contended for by the committee. The elector, to be safe, must, before he gives in his vote, take the election law and subject the managers to some such interrogations as these: "Mr. Sheriff, did you wait till ten o'clock, to the minute, before you opened the election? are the judges of your appointment, or of the county court's? if of the first, under what circumstances did you make it, if of the last, have they been sworn? Have you been present all the time of the election, never turned your back once, walked aside, talked with any one while the people were voting? because, if you did you were just as absent for all the objects of the law, as if you had been called home to a sick wife." Indeed, Mr. Speaker, you perceive, in order to secure his privilege, the voter will do manifest injustice to himself if he does not ask every question necessary to give effect to his suffrage. If every voter takes this precaution, instead of three days it will take three months to hold an election. And, after all, one false answer from the court or the sheriff would defeat him at last; for, under this notion of literal construction, a violated law could not be satisfied any more than if no inquiry had been made at all. But if these are informalities, I insist upon it, Mr. Speaker, they are not such as to amount either to a good cause to reject the votes, or vitiate the election; because they produce no injury to the rest of the voters or to the complainant at your bar, who has been seeking their confidence. On the contrary, it materially injures the discarded elector and his competitor.

That some such reasonable rule as this must be adopted I apprehend no one will deny; for it is idle to say that every informality will or should produce the result contended for. There is not a law under heaven that can be literally carried into effect. Suppose the sheriff had not opened the election until after ten o'clock, does any one believe it would have vitiated the election, or even a vote? Suppose he had not given the month's notice of the election required by the law, would that have invalidated it? No one believes it.

In all the great purposes of government, its ends and objects must be attained by a rational exposition of its rules and regulations. That great law, superior to all law, the law of necessity, pervades every thing human, and cannot be legislated away. Let me give you an illustration of its ascendency. If the sheriff, I think they call him Hocker, had done his duty, Mr. Letcher would now be the sitting member. Suppose, at the beginning of the session, he had voted for the present Clerk of the House, and that Clerk had been elected by one vote, and suppose it shall now be determined, as I fear it will, that Mr. Letcher is not entitled to the seat, will any one say that the Clerk's place should be vacated, because he was elected by a person who was not a lawful voter? And why not? Because, if respect is not paid to the color of office in the diversified relations of public functionaries, there is nothing which can be made to stand the incompetency of language to convey our ideas, or the frailty of forecast to provide for unseen difficulties, or misconceived results. Great and important laws may be passed by one single illegal vote, and yet who believes that you must travel all along the process of this legislation to detect its errors, and then down through its consequences to correct its mischiefs? But, sir, if these informalities are such as the consciences of honorable members cannot surmount, by all that is holy in principle and honest in reason, they cannot work a benefit to one, and a palpable injury to the other contending party, much less can they deprive legal voters of their right to a participation in the choice of a representative who is to legislate on his dearest rights, perhaps of life, liberty, and property.

Mr. Speaker, there is something wrong in this case from the beginning. An attempt was made to deprive Mr. Letcher of his election by the *hocus-pocus* of this Mr. Sheriff Hocker, who has disgraced himself, and nearly his State, and against whose conduct every honest man, from Maine to Georgia, and even beyond those places, if beyond them the case has gone, and honest men can be found, has manifested the most indignant detestation. The scheme which met the cry of shame, shame, from every quarter, having failed, the same object, pursued with an untiring zeal, must be accomplished, first by illegal votes; and that failing also, the law must be made to give way, even at the expense of legal votes, and all the sacred principles of the rights of majorities must be made to yield to a purpose which the most formidable public and private rights cannot resist.

Many cases of contested elections have been relied on by the committee to prove that the provisions of election laws must be complied with: grant that this is right in notorious cases of injury, yet does it follow that the non-observance is to deprive legal voters of their privileges, and throw the result of the election into the hands of a minority? With the exception of two cases cited, the whole current of the authorities show that new elections were ordered. Why have the committee labored by these cases to establish particular premises, and then jumped to a wholly different conclusion? Following up those decisions, they ought to have recommended a new election. But have they done this? If you cannot count these seventy legal votes, fifty-four of which were for Mr. Letcher, for heaven's sake, do not suffer the operation of their rejection to assist a man in obtaining a trust which the majority of the legal voters of his district believed he did not deserve, and which they had conferred

upon another. Send the question back to them, and let them decide it for themselves. Sir, I will put a case, which will show the absolute justness of this course. Suppose there had been but one more vote, besides these seventy, in the county of Garrard, and that one, according to the notions of the committee, the only legal vote, would you say that this vote should determine the election in favor of the candidate for whom it was cast against the other seventy given to his opponent? If you answer in the negative, remember the principle cannot be altered by mixing this single vote with ten thousand others, provided the rejection of legal votes turns the election in favor of a minority. Again: suppose the case I have put should have occurred in all the counties of that district, five in number, (and what might happen in one, might occur in all,) is any one prepared to say that the five legal votes should prevail against five times seventy, equally legal, but void merely for the want of formal requisites? But, sir, suppose, which places the case out of all doubt, there had been no legal votes in any of the counties, but all liable to the objections raised against the seventy, would this House give the election to Mr. Letcher's opponent? And why not? If, in the case put, one vote is allowed to outweigh seventy, and five, five times seventy, then that principle would permit none to do it. If you go upon the doctrine that because Mr. Letcher is not elected, Mr. Moore must be; if you maintain that all fraudulent votes shall be taken from him for want of qualifications in the voters, and all his legal ones for want of a compliance with the form of law, you are bound to decide in favor of Moore, whether he gets any votes or not.

Such principles cannot long prevail in this country, however they may serve to answer a temporary purpose. Sir, I would fain hope that they are not intended to answer even a temporary purpose. Though I sincerely believe the decision will be wrong, if made in favor of the petitioner, yet it may not be right in me to imagine that such result has been influenced by party considerations. I am bound to believe that every member on this floor is actuated by as high and honorable motives as myself, yet, sir, it is not amiss to caution the best among us, from which I do not intend to exclude myself, to beware of the insidious character of party feeling. Parties are necessary in every Government; and in a contest for political principle, I do not condemn a single honest exertion for the ascendency, but when private rights are to be settled, when the case is between man and man, as to property or privilege, the judge or juror that could not forget his party affiliations, must be lost to every principle of honesty and justice. I may be deceived, but I think I can with great truth say that I am able to approach this decision exempt from such a control; for I belong to a party which, I am proud to say, differs altogether from those to which the competitors are attached. This case will soon become one of history, and the strong feelings of party with which, at present, it is unhappily surrounded, will as soon pass into oblivion. We should, therefore, take care that we do not lay up for ourselves matter for severe reproach to the end of our lives. The idea of having wronged a fellow being from considerations which we know to be antagonist to the enduring claims of truth and right, must be a reflection calculated to make a most unwelcome pillow companion in the closing scenes of time. Sir, this election should be decided as if all the people of the district were surrounding us in that circular gallery, and looking them in the face, we should listen to the voice of the seventy rejected legal voters, imagining we hear them demand to have their rights respected as much as those who have been less unfortunate in the presentation of their suffrage, but not more entitled to its exercise.

It was my intention to have said more, but I am obliged to desist from a severe pain in my breast.

Mr. JONES, of Georgia, made a brief explanation on a point in which his argument had been misapprehended by his colleague.

Mr. HARDIN followed in support of the amendment, and in further reply to the gentlemen from Georgia, [Mr. JONES.]

The question being on the motion to amend the resolution, by striking out all after the word resolved, and inserting the following:

"That the legal votes which were received in Lancaster, (Garrard county,) whilst Moses Grant, Esq. acted as one of the judges, on the first morning of the election in August last, and those of a like character, given on the second day of the election, in the casual absence of the sheriff, ought to be estimated in ascertaining the results of the election."

Mr. GILMER called for a division of the question on the amendment, so as to take the question separately on the legality of the votes taken the first day in Garrard; which was pronounced by the Chair to be in order.

Mr. BOON wished the question to be first taken on the motion to strike out; which the Chair pronounced to be out of order.

Mr. GRIFFIN asked the yeas and nays on the question; which were ordered.

Mr. JONES, of Georgia, spoke at considerable length in rejoinder to the several gentlemen who had replied to him.

Mr. HAMER took the floor, but yielded it to a motion to adjourn.

The House then adjourned.

THURSDAY, MAY 22.

After disposing of the usual morning business—

The following message, received yesterday from the President of the United States, was read:

WASHINGTON, *May* 21, 1834.

I lay before the House of Representatives a copy of a "convention for the settlement of claims between the United States of America and her Catholic Majesty," concluded on the 17th February last.

This convention has been ratified by me, agreeably to the constitution, and will be immediately transmitted to Madrid, where it will doubtless be ratified by her Majesty. It is deemed proper to communicate the convention thus early, that provision may be made for carrying the first article into effect as soon as the ratifications shall have been exchanged, in order that our citizens may, with as little delay as possible, obtain the stipulated compensation.

ANDREW JACKSON.

POLISH EXILES.

Mr. CAMBRELENG asked the unanimous consent of the House to submit a motion granting the use of the Hall on Monday evening next, for a public meeting to be held to devise means for the benefit of the Polish exiles.

Mr. HAWES objecting—

Mr. CAMBRELENG moved a suspension of the rule, to enable him to submit the motion.

The House suspended the rule, and the question on the motion having been put, it prevailed: Ayes 90, noes not counted.

The House resumed the consideration of the report of the committee on

THE KENTUCKY ELECTION.

The question before the House was the resolution reported by the Committee of Elections, that Thomas P. Moore was entitled to the seat in the House from the fifth congressional district, as proposed to be amended by Mr. BANKS, by declaring that the votes taken in Garrard

county, in the absence of the judge of the election appointed by the county court on the first day, and in the absence of the sheriff on the second day, be counted.

Mr. HAMER rose and said:

Mr. Speaker: Before I proceed to submit my views of the question now pending before the House, I trust I shall be indulged in making a single remark, in reference to myself.

I concur with the gentleman from New York [Mr. Vanderpoel] who addressed the House the other day, and who is a member of the Committee of Elections. He informed us that it was not by his desire that he had been placed on that committee. So of myself, sir. Although I have never sought to avoid any responsibility that devolved upon me, in the several stations I have had the honor to occupy, still I have never courted it when it did not belong to me. With a knowledge of the business that must come before the Committee of Elections, I should have been very unwise, at the commencement of the session, to have desired a place among its members. But, sir, I was placed upon it by the presiding officer of this House, and I have endeavored to discharge my duty faithfully. It was the fortune—good or bad—of the gentleman from Pennsylvania [Mr. Banks] and myself, to be selected as a sub-committee, to examine the immense mass of testimony, consisting of some eighteen hundred pages of manuscript, and making a large volume, now that it is in print, that had been taken by the respective claimants to a seat on this floor. Nearly five hundred votes were assailed as illegal. Some were said to be given by minors; others by aliens; others again, by persons who were not residents of the county where they voted; and a variety of other disqualifications were alleged to exist.

In some instances, three, four, or five witnesses were examined to prove the illegality of a vote; and three or four depositions would be taken to assail the credibility of one of these witnesses. Indeed, the case presented for our examination almost every question that can be imagined to exist in a contested election. We labored upon it, as is known to a number of gentlemen, night and day, for many weeks, until my own health was seriously impaired. Upon a large majority of the points presented to us, we agreed: upon some we differed. Having travelled through it, the majority and the minority of the committee have each submitted the results of their examination to the House. From the fact of my having served upon the sub-committee, it is expected that my views of the question will be made known in this discussion.

One word more, sir, and I proceed. I hope it will be distinctly understood, that, in whatever terms I may feel myself compelled to speak of the arguments of gentlemen, I mean no personal disrespect. I have no unkindness of feeling towards either of the claimants, or for any gentleman who has spoken in the progress of this discussion on either side of the question. It is not my habit to impugn the motives of others, or to give an uncharitable construction to their conduct; and, pursuing that course towards those who differ with me, should it be my misfortune, either now or hereafter, to have my own motives assailed, or my conduct misrepresented, I trust I shall know how to repel all such assaults with the spirit that becomes a freeman.

The majority of the committee find themselves placed in a most singular condition. They are charged by the minority with erroneous decisions, in a number of cases where votes have been stricken from Mr. Letcher's poll; and it is said by gentlemen that if these cases had been correctly determined Mr. Letcher would have had a majority of all the votes of the district, and would be entitled to the seat. On the other hand, Major Moore has laid a printed argument upon our tables, accompanied by a list of some forty or fifty votes, which were retained by the majority for Mr. Letcher, that he (Mr. Moore) asserts should be stricken off; thereby making the majority for him much larger than it is now. Thus we are standing between two fires, both parties complain of our decisions. Under such circumstances, there is but one course for us to take; and, so far as I am concerned, but one will be taken; it is to proceed directly forward, regardless of the consequences, be them what they may.

I agree, sir, with the gentlemen who have preceded me, that this is a question of deep importance. It is important to the claimants, because it involves the right to a seat on this floor; it is important to the people of the fifth congressional district, and, indeed, of the whole State of Kentucky, as affecting their representation in this branch of the Government; and it is important to this House and to the American people; for the decision now made will be looked to as a beacon for the guidance of those who may have to determine similar cases in after times. It behooves us, therefore, to proceed with caution and deliberation; to weigh well every argument that may be presented; and so to decide, as that vital principle may be preserved inviolate, and substantial justice meted out to all concerned.

To discuss this subject in the manner best calculated to present its merits clearly and intelligibly to those who hear me, it becomes necessary to relieve it from some of the encumbrances that have been heaped upon it by the gentlemen who have preceded me. It often happens that we mislead both ourselves and others, in discussing a question, by making false issues, and by incorporating extraneous matters that do not properly belong to the subject. These are so many false lights that lead us astray in the pursuit of truth. They should be extinguished; for their glare upon our mental vision has a direct tendency to obscure the object which they were designed to illuminate.

One prominent position has been taken by the minority of the committee, and by all the gentlemen who have spoken upon that side of the House, which I am bound to notice. They charge the majority with advancing the doctrine, that an individual having a minority of the votes in the fifth district is entitled to a seat on this floor. Sir, I deny this charge. The committee have advanced no such doctrine in their report; and not a single member of it has advocated such a principle. For myself, I wholly repudiate it. We have not only not contended for any such principle, but we have said, expressly, that, after a full and thorough purgation of the polls, counting in as legal all the votes given at Lancaster on Monday, whilst Esquire Grant was on the bench, and all given during the absence of the sheriff on Tuesday, still there was a clear majority of the individual votes in favor of Major Moore. We contend for the doctrine that a majority shall rule, as strenuously as the gentlemen do. Indeed, both the candidates maintained their claims before us upon this principle. It was the main question to be determined by the committee. Each of the claimants contended that, after striking off all illegal, individual votes, he had a majority of what remained. The legality of the votes given at Lancaster, on Monday and Tuesday, was a question upon which the committee felt bound to give an opinion, because it was one that would probably come before the House. But, independently of that question, they found a majority of votes for Major Moore.

Why, then, are we charged with maintaining that a minority is to prevail over a majority? I ask the gentlemen whether, in ascribing to us such sentiments, they treat us with the fairness to which we are justly entitled?

Again, sir: A disinterested listener, who was unacquainted with the merits of this controversy, would suppose, from the speeches of gentlemen, that we were about to overthrow the dearest rights that belong to the people of this great republic. One gentleman [Mr.

MARSHALL] declares that the sense of the country will put down our doctrine; and he asks, most triumphantly, whether this is a principle by which any gentleman is willing to stand in this country? Why, sir, this would all be very appropriate, if the committee had attempted to sustain the proposition ascribed to them; but I have already stated that they do not. Their report rests upon no such sandy foundation. It stands upon the great fundamental principle, that the majority shall rule. It recognises the rights of the people as secured by their own institutions. And I tell the gentleman, in answer to his question, that, by this principle and these institutions, I am willing to take my stand; and to risk, in so doing, what little reputation I now possess, or may hereafter live to acquire.

The conduct of Alfred Hocker, the sheriff of Lincoln, has been alluded to by all the gentlemen who have addressed the House upon the other side. It has been called "disgraceful;" the term "*hocus pocus*" was applied to it by the gentleman from Georgia, [Mr. CLAYTON.] His conduct, right or wrong, has nothing to do with the question now before us. It is the conduct of Thomas Kennedy, the sheriff of Garrard, that is under consideration.

No one has attempted to justify the act of Mr. Hocker, in withholding the poll-book of Lincoln, as a legal act. The committee have expressly condemned it. Major Moore, in whose favor it operated, does not pretend to justify it as legal. He claims nothing under it. But the act itself, and the motives of the individual, are two distinct considerations; and this man, whose name has been loaded with maledictions, is proved to possess a most excellent character—to be an upright, honest, and patriotic citizen. His motives were, no doubt, good, and his acts resulted from what is supposed to be a wrong construction of the law. Let us see if there is nothing to palliate his offence.

The law provides that the sheriffs shall meet within fifteen days after the election, and, by a faithful comparison and addition of the votes given in the several counties, ascertain who is elected, and make out his certificate. Mr. Hocker believed that the sheriffs, when so met, composed a board, having the right to decide upon the validity of a poll-book; and, if the election, in any one precinct, had been held in open violation of law, that they had a right to reject the votes so given. In this opinion, he may have been wrong; yet the language of the law affords a plausible excuse for the sentiments he avowed.

Finding that the sheriffs would not enter into such an examination as he desired, believing that the votes about to be counted ought not to be considered in a faithful comparison and addition, he retired with his poll-book, leaving the question to be decided by the constituted authorities of the country.

It has been said, in the course of this debate, that the certificate of the three sheriffs proves nothing; that, not being made pursuant to the law, it is void; that Major Moore claimed a seat here upon such a certificate; that Mr. Letcher ought to have had the seat, upon the copies of the poll-books which he presented; and, says the gentleman from Georgia, [Mr. CLAYTON,] the ground is now changed in favor of the former; and it is contended that a minority of votes shall entitle him to a seat here. The validity of such a certificate is not now a legitimate subject of discussion. It has no connexion whatever with the point before the House; but I beg leave to set the gentleman right, with regard to the respective position of the two claimants throughout this whole contest.

At the commencement of the session, there was nothing in dispute but the right to a temporary seat in the House. Each party claimed it; one upon the copies of the poll-books, and the other upon a certificate signed by three sheriffs of the Congressional district—the law requiring all the sheriffs to sign it. Neither of them had the evidence, strictly speaking, which the law required. Neither of them contended for a permanent seat here, upon such evidence. The right to that, they both admitted, would depend upon a majority of the votes given in the district, after a thorough purgation of the polls. Precisely that doctrine have they both contended for ever since. In all their communications with the committee, they rest their claims upon this principle; and each one insists that he has such a majority. Their claims to a temporary seat, we all know, were waived, and the whole matter referred to the committee. How, then, has the ground been changed? Why does any gentleman indulge himself in throwing out reflections upon one candidate and not upon the other? I deny, sir, that the ground has been changed. The right to a permanent seat is still claimed by both candidates, as it has been from the first, by virtue of a majority of the individual votes. Who has this majority, is the question now to be determined by the House.

Here, I cannot but notice a remark that fell from the gentleman from Georgia, [Mr. CLAYTON,] who is not a member of the committee. He declared that he believed this case would be decided wrong! For my own part, I entertain no such fears. I will not anticipate an erroneous decision by this House of any question. To the apprehensions of gentlemen, that party influence will be brought to bear upon the minds of honorable members, I will not speak in reply. It should be presumed, I think, that all will act from pure motives and sound and honest principles.

Various cases have been presented, by way of argument and illustration, from the election laws of Georgia, Pennsylvania, and Kentucky. I do not feel bound to answer the inquiries they propose, because they have no direct bearing upon what is believed to be the true issue before the House. They may serve to amuse and instruct us upon other points, but it is most important that we consider the question upon which we have to decide.

The gentleman from Kentucky, [Mr. HARDIN,] who last addressed the House, expressed his surprise and regret that the committee had not decided two very important questions, as he conceived them to be. The first was, whether the sheriff could, under any circumstances, open the polls before 10 o'clock. The other was, whether the certificate, made out by the three sheriffs, and transmitted to this House by the Executive, or copies of the poll-books, furnished the best evidence of the number of votes received by the candidates. Now, the answer to all this is easily given. The committee did not feel themselves called upon to decide either of the points named; because they arrived at a final termination of the whole case without such decision. Take either the poll-books or the certificate as evidence of the number of votes received, and Major Moore has a majority. Count all the votes taken before 10 o'clock, at Lancaster, or exclude them, and in either event he has still a majority. Although these questions were presented to the committee, as a great many points are presented in argument to a court or jury, by counsel, still they no more considered themselves obliged to decide upon them, than the court feels bound to adjudicate upon all the points raised by the advocates during the trial. They find one or two principal points, upon which the whole case turns, and decide them; leaving the others for some future occasion, when necessity may require a solemn judgment upon them.

That gentleman presented another very grave inquiry. It was—"what is a day?" As the constitution of Kentucky gives a day to the electors for exercising their right of suffrage, he contended that the Legislature could not limit them in the exercise of the right to certain hours of the day. Any such attempt, he thinks, would be unwarranted; any such law would be unconstitutional.

I am not disposed to enter the arena with the gentleman to discuss so serious a question. If he chooses to nullify the law, let him do so. If he determines constitutional questions by a literal application of the language employed in the charter, then his criterion is different from the one which I have been accustomed to regard as the truer and safer rule. To carry out the principle would involve us in great difficulties. In almost every American constitution there is a clause which declares, substantially, that justice shall be administered, without sale, denial, or delay. Suppose you owe me a sum of money, but fail to pay it on the day the debt becomes due: I am entitled to justice without delay. It is a constitutional right. The law ought to provide, according to the principles of the gentleman, for an immediate arrest, trial, judgment, and sale of property, or person, or imprisonment of the latter at least. There must be no security taken for the defendant's appearance at court—no time allowed to prepare for trial—no stay of execution. These would occasion delay, and a law allowing the debtor such privileges would be unconstitutional! Surely the gentleman does not contend for a mode of interpretation that would lead to such extravagant consequences. I apprehend, sir, that the true rule is, to give all these clauses a reasonable construction; one that is consistent with the general principles and scope of the instrument, and with the manifest intention of those who framed it.

Whilst upon this subject, I will take occasion to say that, to my mind, there is a striking incongruity in the doctrines of some gentlemen. At one time they adhere to the very words of the constitution and laws of Kentucky. They are strict constructionists of the straitest sect. For example, when the constitution says that the election shall be held on the first Monday in August, and the law says that the sheriff shall open the polls by 10 o'clock, and keep them open till at least one hour before sunset, why, here it is contended that the voters are entitled to the whole day, from midnight of the previous evening, until midnight of the first Monday in August; and that the sheriff may open the polls immediately after midnight, and keep them open during the whole twenty-four hours. In this case, we must "stick to the letter." But, when the law says that all votes shall be given in the presence of the judges and sheriff—then we must turn latitudinarians of the ultra school. In this case, gentlemen tells us that the law does not mean what it says at all. We must give it a liberal construction. The sheriff may absent himself from the county entirely, and yet the votes given in his absence will be valid in law. Perhaps gentlemen can reconcile these two modes of construction as consistent with each other, but I confess my utter inability to do so.

Another gentleman from Kentucky [Mr. MARSHALL] has told us that, among all the precedents referred to, no case can be found where this House has, under circumstances like the present, stricken off the whole or a part of the votes given in a township, parish, or precinct, on account of the illegal manner of conducting the election, and then given the seat to a candidate who had a minority of votes, by retaining such poll-book; but a majority, by its rejection. Without stopping now to say how far precedent should control us in deciding a case of such marked peculiarities, I will inquire of the gentleman whether this House has not, by former decisions, established the principle that such poll-books are to be rejected; that where the law has been openly violated and disregarded in conducting the election, the votes given shall not be counted in the final addition? That such decisions have been made, and such a principle established, will scarcely be denied. Well, sir, it is for the principle we contend; by that we should be governed. If the constitution and the law, as well as the former judgments of this House, demand the rejection of these votes, we are not to inquire for the consequences to a particular individual; whether it will put him in or out of a seat. Apply the principle to the facts of the case—let it cut off whomsoever it may.

The gentleman from Georgia [Mr. CLAYTON] has informed us that the very existence of representative government is menaced by the report of the committee; and that he firmly believes this case will be decided wrong. From what premises does the gentleman draw his conclusions? How has he ascertained which side is right, and which wrong? How has he learned which of these candidates has a majority of the individual votes given in the fifth district? Has he made a thorough purgation of the polls? Has he, in one short week, the time we have had the printed documents upon our tables, examined the testimony, and decided for himself, upon all the questions involved in the contest? I apprehend he will not say he has. If the gentleman undertakes to pronounce one side right, and the other wrong, without this searching examination, is he not in danger of falling into fatal mistakes? Sir, he kindly admonished the House against allowing party feelings to enter into the decision of this question; but if he permits himself in advance to pronounce one side right and the other wrong, is he not in danger of the same pernicious influence against which he so earnestly warns others? I do not believe that honorable gentlemen have formed their opinions, and steeled their understandings against all argument upon this subject. If so, it would be in vain for me to stand up here, and submit my views for their consideration: I might as well attempt to struggle with the whirlwind. No, sir, the gentlemen are mistaken with regard to the character of our report. It does not, nor do the principles we advocate, menace the existence of representative government. It does not, nor do we, contend for the doctrine, that a minority shall govern a majority. The report of the committee is based upon the broad principles of inflexible truth, which, sooner or later, will bear down all opposition. Our report is shielded and sustained by the laws and the constitution of the country. It imbodies principles that will bear the test of human scrutiny, apply it whensoever and wheresoever you may.

Mr. Speaker, there has been a great deal said in the course of this discussion about the inalienable rights of voters, and the inherent right of suffrage. These rights are neither inherent, nor are they inalienable, as was most conclusively shown by the gentleman from Georgia, [Mr. JONES,] who is a member of the committee. An inherent right of suffrage does not exist, it never did exist. And I am surprised to hear gentlemen of great ability, who have been long in public life, talk of an inherent right to vote. They have not considered this subject with their usual care, or they would not indulge in the use of such terms, nor would they attempt to derive arguments from a proposition so wholly untenable. The right of suffrage is not inherent. It is derived from the social compact, and did not exist anterior to it. It is not inalienable, for it may be forfeited by those who possess it, in various modes pointed out in the constitutions of the several States of this Union.

What is the right of suffrage? It is a right which I have to bind you. I elect an individual whose acts are obligatory upon you, within the sphere assigned him, no matter whether he is your choice or not. Do I possess this right in a state of nature, independently of the organic laws under which we live? Certainly not. If the right were inherent, all men would possess it. Aliens, females, and minors would possess it; negroes and mulattoes would also claim it. But we all know that such is not the fact. Certain classes of society are every where excluded, by the constitution and laws. By the way, sir, while upon this point, I will take occasion to avow the opinion, that a

certain portion of the ladies ought to be allowed this right. Man, however, being the "stronger vessel," possessing the power, physical and numerical, has deprived them of this privilege in every State of the Union.

In a state of nature, every man is a sovereign. He is the sole regulator of his own actions. No man can bind him: no one has a right to interfere with him. But when he enters into society, he surrenders a portion of his natural rights, and submits himself, in a certain degree, to the control of others. The manner in which such control must be exercised, is pointed out with precision in the constitution and the laws; and, to be effective, it must conform, in every important particular, to the rules which are thus prescribed. If you attempt to exercise it in any other mode, your acts are void, and impose no obligation whatever. This proposition is perfectly indisputable: it is as true as revelation itself.

One gentleman [Mr. MARSHALL] has informed us that it is sufficient, upon the present occasion, to advert to the constitution of Kentucky; that it alone furnishes a sufficient rule to guide this House in its determination. No proposition, in my opinion, could be more erroneous. We must first turn to the constitution of the United States; we may then examine the constitution of Kentucky; and, lastly, explore the laws of that commonwealth. From these three sources we can obtain the rules by which we should be governed. By the first, we are empowered to judge of the elections and qualifications of our own members. By the second and third, the qualifications of voters, and the time, place, and manner of holding elections, are particularly pointed out. Under the constitution of Kentucky alone, no election could be held. The gentleman stated a case in which he supposed the people of a district to meet, and, in some way, to manifest their choice (without any law) for a particular person, as a representative in this body; that individual arrives here with proof, by affidavits, or otherwise, of such choice, and demands his seat; and the gentleman declares it to be his opinion that we would yield to the demand. But suppose that one-half, one-third, or even a less number of voters in that district should remonstrate against his right to a seat here: would this House disregard their complaint? I tell the gentleman that, under no circumstances, as I conceive, could such a title be recognised here. Sir, the constitution of the United States presents an insuperable objection to it. It declares (art. 1st, sec. 4th,) that "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof." This constitution is the paramount law of the land; and no valid election can be held until the State Legislature has prescribed the rules by which it is to be governed. True, Congress have power to alter these rules; but it must be done by law. This House cannot do it. And until a law is passed by Congress upon the subject, the law of the State must prevail. It is in vain to insist that, if the officers appointed by the constituted authorities refuse to serve, any unauthorized person may take their places; that, if the law requires thirty days' notice, two days would be sufficient. It is in vain for gentlemen to say, in reply to the able argument of my friend from Georgia, who made this report, that he is adhering to the letter of the law, and disregarding its spirit; that this is an age of "liberal principles." Sir, these principles are truly liberal! They lead to the overthrow of all order; of all government. Instead of a Government of laws, which is the pride and the boast of every American, they offer us the most wild and lawless anarchy. They would prostrate the valued and established institutions of the country, and transform our whole system into a "mobocracy."

In this contest two things are admitted, on all hands. There is no difference of opinion with regard to them. The majority and minority arrive at the same conclusion; and in that conclusion all the gentlemen who have addressed the House concur, without hesitation. The first is, that there has been an election; and the second, that a part of the votes given are to be stricken from the polls. Upon these two points we all agree. But when we come to judge of the particular votes to be rejected, then we disagree. And in determining the various points which arise, it has been well remarked by a gentleman from Kentucky [Mr. HARDIN] that this is a case *sui generis;* that it ought to be decided by the constitution and laws of Kentucky, and the practice under them, and not by precedent. If to these he had added the constitution of the United States, I should have been satisfied with the rule he proposed.

Notwithstanding the merits of the whole controversy are properly before the House, yet the votes more immediately under consideration are those given at Lancaster, in the county of Garrard, whilst Moses V. Grant, Esq. was presiding as judge on Monday morning, and the votes given at the same place on Tuesday, in the absence of the sheriff. Here I must be allowed to notice a position advanced in the minority report, and in the arguments of several gentlemen who have discussed this subject. It is said that the majority of the committee admit that the votes given on Monday morning, before ten o'clock, would have been good, if Mr. Grant had remained upon the bench throughout the election. Now, sir, the report of the committee contains no such admission, nor have I heard a single member of the committee advocate that doctrine. In the report it is, in so many words, left undecided. It is remarked that the committee might not have rejected the votes, if Grant had continued to act, thus leaving it wholly undetermined. For my own part, I expressly disclaim having made any such admission.

With respect to the legality of the votes taken on Monday morning, it has been repeatedly asserted that the true question is, Has a sheriff the right to open the polls before ten o'clock? Upon this hinge, it is insisted, the whole case turns. In this matter, I am compelled to dissent altogether from the gentlemen. Whether a sheriff could, or could not, under ordinary circumstances, all the officers appointed by the county court being present, proceed to open the polls before ten o'clock, is not the true issue. In fact, it has little or nothing to do with the point under consideration. The true issue is, Can a sheriff, before ten o'clock, which is the usual hour of opening the polls throughout the State of Kentucky, declare the office of a judge vacant, and appoint whom he pleases to fill the vacancy, when the judge himself is on his way to the place of holding the election—is in sight of the town, if you please—and actually arrives there before ten o'clock? Or, in other words, can the sheriff create a vacancy, by his own arbitrary will, where there is none, either in fact or in law, and thereby thrust from the bench the judge appointed by the court, filling the place with an individual of his own selection? Can this judge occupy the seat for an hour, until the usual time of opening the polls, and then give place to the true judge? and shall the acts of the former be deemed legal, and receive our approbation? The constitution says that the election shall be held on the first Monday in August; the law provides that the county court shall appoint two judges, and a clerk of the election, and that the sheriff shall open the polls by ten o'clock. If the judges or clerk do not attend, the sheriff is required to fill the vacancy. They are each to take an oath of office, and to attend to receiving the votes, until the election is completed, and a fair statement made of the whole amount thereof. The practice under this law, in Garrard, is proven to be, to open the polls at ten o'clock; and this construction, it is believed, has been given to the law throughout the whole State. But, as the phrase "by ten o'clock" is used, the gentlemen contend that the sheriff may open the polls at any time between

midnight and that hour. Here they are strict constructionists. They would hold us to the very letter itself. Upon another branch of the subject, we were told by the gentleman from Pennsylvania [Mr. Banks] that the powers of the sheriff must not be enlarged "by construction." Let us apply that principle here. Let us look a little to the consequences that flow legitimately from the argument. It will not be denied that the law, in requiring the county court to select two of their own body to act as judges of the election, intended that, under all ordinary circumstances, the judges who presided should be individuals selected by that respectable body of men; and that it was only in the event of certain contingencies that the sheriff should be permitted to select either judges or clerk. The practice under the law has been in entire conformity to this supposition. But if, as gentlemen contend, the sheriff can, at any time before the hour of ten, open the polls, and fill all the vacancies that exist at the time of opening them; and if the mere fact of the judge and clerk not being present at the moment constitutes a vacancy, then is the whole object of the law defeated. The sheriff may, at every election, supersede the officers appointed by the court, by his own friends, or the friends and creatures of one of the candidates. He can attend at any moment after midnight—open the polls, and, having the persons he wishes on the spot, proceed to fill all the offices! It is said they may resign. True. But suppose they do not choose to resign, as they would not in party times, or when a particular object was to be accomplished by their appointment: the judges and clerk appointed in pursuance of the law might attend at the usual hour, and demand their seats; but it would be mere mockery to do so. The individuals selected by the sheriff, and who, probably, would never have been chosen for any purpose by the court, will remain upon the bench, and control and manage the people of the county, in open defiance of their will, and of the plain and palpable meaning of the law. Sir, this doctrine constitutes the sheriff of the county a monarch! It clothes him with the most alarming powers--powers that were never designed to be given him, and which can only be claimed by a most labored and far-fetched construction of the law. When gentlemen talk of absurd consequences resulting from the construction which the committee have given to the statute, it would be well for them to follow out the consequences of their own principles.

For what do we contend? Why, that as ten o'clock is the usual hour of opening the polls—the only time named in the law—and as the court have the power to appoint the judges and a clerk, and the sheriff only a power to fill vacancies, the manifest intention of all this is, that the sheriff shall wait until ten before he declares the offices vacant, and proceeds to fill them by new appointments. This is no labored construction. It is a fair, a reasonable construction. It establishes a safe rule, that will protect the rights of all concerned. It gives effect to all the provisions of the law, and so construes the various clauses as that the whole statute may stand unimpaired.

It is amusing, sir, to hear the gentlemen who call this a labored construction, and who insist so strenuously upon our adherence to the language, to the plain letter of the law, in this instance, when they arrive at another point, attempt to show that the presence of the sheriff is not necessary during the progress of the election. They admit that the law says the votes shall be given in the presence of the judges and the sheriff, and yet contend that the sheriff need not be present; that he may leave the town, and call some one of the neighbors to cry the votes and discharge the various duties of the presiding officer. He may ride through the county electioneering for one of the candidates, or employ himself in any manner he pleases; and yet, all that is done in his absence is valid and deserves our unqualified sanction. So bold did this position appear to the gentleman from Kentucky, [Mr. Hardin,] who last addressed the House, that he endeavored to avoid it by a more circuitous route. He contended that Mr. Spillman, who cried the votes in the absence of the sheriff, was a deputy, and his acts were therefore legal.

Let us examine this ground. How was he appointed a deputy? Had he a warrant, or certificate of appointment? None, whatever. Was he sworn? Not at all; yet the law requires that he should be. Was he requested to do an official act? No; the gentleman informs us that the law does not require votes to be cried; that it is only a practice that has grown up in the State. The only act which the sheriff asked Spillman to perform was, to cry the votes. Yet the gentleman says that he was a deputy. No certificate--no oath—not even required to do an official act; and yet a deputy sheriff of Garrard county! Sir, the gentleman complained of the "sophistical reasoning" of those who differed with him in opinion; but if this be sound reasoning, then I confess that all the rules which I have been taught, for the purpose of distinguishing true from false reasoning, are utterly delusive and erroneous.

Mr. Speaker, there is but one safe ground to occupy, in relation to this whole subject. The constitution and laws of society have prescribed certain rules by which elections shall be conducted. To these we must look in every contest: by these we must abide in all our decisions. An election which has not been held in accordance with them is absolutely void.

What is the object of these rules? Is it not to secure to us a good Government? to give order, stability, and security to the body politic? It is, sir. Those who framed them intended to protect us equally from the iron tyranny of a despot, and from the uncertain, capricious sway of an uncontrollable mob. This can never be accomplished, but by adhering to the rules, as they have been established. Yet gentlemen contend that the people are not bound to know the rules; they are not required to know the law! Is not this a strange doctrine to be advocated by legal gentlemen; to be advocated by lawyers of long practice, and of high eminence in their profession? Sir, one of the first lessons taught in the legal science—one of the fundamental principles upon which all judicial proceedings are predicated—is, that every man is bound to know the law. What would be thought of an individual, arraigned in court for an offence, who should plead that he did not know the law, and was not bound to know it? What would be said to a party, in a civil case, who would attempt to set up such a defence? They would both be silenced by the court; and that, too, with the approbation of every lawyer in the country.

Again, we are told that we ought to decide this question upon principles of equity; that we must not be technical, but must be guided by the justice of the case. I have more than once heard very much such arguments in court. An advocate, finding all the principles of law against him, appeals to what he calls equity and justice. He implores the court and jury to remember that it is a hard case, and that it is their duty to do what is right between the parties. Do we not all know to what this argument leads? It has been well remarked by an eminent writer, that if even a court of equity should disregard certain general rules and principles, all our rights would depend upon the arbitrary will of the court; upon the notions entertained by the judge of what was right and what was wrong. One judge would decide a cause one way, and another would decide a similar cause differently. We should have no rule but the dictates of the chancellor's conscience, or the length of his foot! The laws furnish a certain criterion by which all our rights can be determined. Disregard these, and you set up in their place the opinions, notions, and feelings of the court and jury, in every case that comes before them. Are gentlemen

prepared for this? Are they willing to set aside the election laws of the States, and be governed by the opinions of the honorable members of this House? For my part, I can never sanction such a state of things; nor can I countenance principles that must inevitably lead to such a revolution. In the language of the Pittsburg memorial, read here the other day, I go "for the supremacy of the laws and constitution of my country."

Nearly allied to the argument which I have just considered, is another one equally fallacious, when applied to this election. The gentleman from Pennsylvania [Mr. BANKS] insists that Grant was acting under color of authority, and that his acts were therefore good; that he sat in the place of a judge; that he had all the emblems of authority about him, and the people were not bound to inquire whether he was legally authorized to receive votes or not. Apply this doctrine to the practical concerns of life. Suppose a person comes to your house claiming to be the tax-gatherer of the county; he has a book containing the names of yourself and neighbors, with an amount of chattel and land tax against each one; he is a decent, gentlemanly looking personage, and you have no reason to doubt his being fully authorized to receive your taxes; you pay him, and take his receipt. But, to your utter astonishment, on the next day the proper officer appointed by the Government to collect the revenue appears at your door and demands the payment of your quota of the public levy! Will your receipt protect you?—will it do to talk about the stranger's having the color of authority or of office? Why, we all know it would not. Suppose, again, that there is a judgment against you in court for a sum of money; an individual, professing to be a sheriff or deputy sheriff, but who is not so, calls upon you and demands payment of the amount; you discharge the debt, and take a receipt; will it protect you when the true officer appears? Sir, it would be worse than idle to talk to him about the color of office or authority. The money would have to be paid again.

The answer to all that has been advanced upon this point is, that there is a wide difference between acts that are *void*, and those that are only *voidable*. Every lawyer is aware of this. When a man undertakes to discharge the duties of a public officer by virtue of an appointment or authority that is merely defective, or informal in some particular, but which has been conferred by the proper tribunal, then his acts are not to prejudice third persons. Individuals are allowed to recognise him as a public officer, without inquiring into all the merits of his title to such distinction. As, for instance, if an office becomes vacant, and the persons authorized to fill the vacancy make an appointment, which is not made, however, in exact conformity to law—which is defective in its form—here individuals might be protected by his acts. But when an appointment is wholly nugatory in its inception; when it is void in the first instance, as in the case of this judge; when it is made to fill a vacancy that has not happened—that does not exist—then all his acts are totally void; they neither protect himself nor any one else. They can neither be recognised in a court of justice, nor before any other tribunal that pretends to be governed by law.

Throughout this discussion, as well as in the report of the minority, there is one point to which our attention is earnestly called. It is said, sir, that the chief, if not the only inquiry should be, were the persons who voted properly qualified to do so, according to the constitution? If so, it is but of little consequence who presided. To this proposition we are constantly referred. Of its peculiarly important character we are perpetually reminded. It seems, from the arguments of honorable members, to possess a paramount interest over every other consideration that has been named. They present it in every variety of shape and surface; it is decorated with all the ornaments that the most fertile imagination can bestow. They cling to it with the violence of a shipwrecked mariner who feels that his only hope is the plank in his grasp, and that some more powerful arm is tearing even that plank from his possession. We are urged to concede the point, with a degree of earnestness and eloquence that requires the utmost strength and resolution to resist the overpowering influence.

For one, sir, I beg to be excused. The position itself is wholly defenceless; and I cannot but believe that gentlemen will find it so upon a closer examination. What is an election? One gentleman [Mr. MARSHALL] informed us that it was an expression of the choice of a majority of the voters. This is a sound definition, so far as it goes. It is the truth; but it is not the whole truth. An election is an expression of the will of a majority of the voters, manifested according to the provisions of the constitution and laws. Unless their choice is made known in the mode prescribed by these, the act is void; it is no election; it binds no one; it confers no privilege whatever. What do these instruments require? They not only define, particularly, who may vote, but they point out, specifically, the time, place, and manner of voting. They not only declare who may give votes, but they are equally precise in declaring who shall receive the votes so given. There must be both givers and receivers. We can no more have an election without some tribunal to receive and record the votes, than we can without some person to give the votes which the law requires to be recorded. Is there a doubt about this? Is not one as necessary, both by the law, and from the very nature of things, as the other? Does not the truth of this proposition strike every mind with irresistible force? It does, sir. And you might as well wage war with the tempest in its mad career, as undertake to combat a principle so far beyond the reach of refutation.

By an election, a part of the community appoint public agents or servants, whose acts are obligatory upon all. Yes, sir, I repeat it, they appoint public servants; for, democrats as we are, republicans as we may profess to be, or "whigs" as we may have recently become, we are too apt to forget "the rock from which we have been hewn;" and it is well for us to be reminded that we are but servants to the great mass of our fellow-citizens, bound by their will, and responsible to them for all our conduct. But the acts of the agents are not, and ought not to be, binding upon all, unless made according to law. A more obvious truism could scarcely be presented to the human understanding. Yet the minority of the committee boldly avow the doctrine, and are sustained by the arguments advanced upon this floor, that if persons, having no authority whatever, should drag the judges from the bench, and usurp the authority to preside over the election, their acts would be legal, the election would be valid, and the candidate having a majority of votes, thus bestowed, would be entitled to a seat in this House. I confess, sir, that I am startled when I hear such principles avowed in the House of Representatives of the United States. I am the more amazed, when these disorganizing theories are put forth by honorable members, who have been so loud and so vehement against the President and the Secretary of the Treasury, for alleged usurpations and violations of law with regard to the United States Bank and the public revenues of the country. Why have they so suddenly become the advocates of "usurpers?" Is not usurpation the same in every department of the Government? Sir, I am against it, let it come in what shape, or from what quarter it may. I oppose it in judges of an election; I oppose it in this House; I denounce it in the Senate; and convince me that the Executive has been guilty of it, and I will condemn him as freely and cordially as I now support him. The gentleman from Kentucky [Mr. MARSHALL] insisted that the sheriff could

make a temporary appointment of judges. This he inferred from the facts, that the judges and clerk hold their offices for a year; and as there might be more than one election during that period, and they might be absent from one and present at the others, it would be necessary for the sheriff to appoint officers to serve during their absence. Suppose this to be so, does it legalize Grant's appointment? Clearly not. For he was appointed before the vacancy occurred; and he left the bench at ten o'clock; when the law declares that the judges and clerk appointed shall attend to receiving votes until the election is completed, and shall then certify the same. Here the judge leaves the bench before the election is closed; he does not count the votes taken whilst he was presiding; and he makes no certificate at all of what was done during the time he officiated. Mr. Wheeler, who succeeded him, could not certify to what was done before he came to town; and so far as his certificate purports to cover Grant's doings, it is a nullity. If, therefore, the sheriff could appoint a judge to preside during one election in the year, it by no means follows that he can appoint one to officiate for an hour or two, and then absent himself without leaving behind him the slightest traces of his official existence.

We have heard, sir, that Mr. Grant was sworn as a judge. By reference to the depositions, it will be seen that this is very doubtful. The sheriff testifies that he believes Mr. Grant was sworn, and that H. McKee, Esq. administered the oath. But in another part of his deposition, he states that he appointed Grant, because there was no other justice in town. How, then, could Esquire McKee be there to swear the persons appointed? It is extremely probable that the sheriff is mistaken, and that they were not sworn at all.

Somewhat akin to this, is another argument of a gentleman from Kentucky, [Mr. Hardin,] who, in order to connect and legalize the acts of Grant and Wheeler, contended that Grant resigned at ten o'clock. Yes, sir, the sheriff appointed Grant at nine o'clock, to fill the vacancy occasioned by the absence of Wheeler; Grant took his seat; he had no written appointment; there is no record or entry made of it; it is uncertain whether he was even sworn. He remains at the bench till ten, the usual hour of opening the polls, when Mr. Wheeler arrives and takes Grant's place; or, according to the gentleman, Grant "resigns," and, I suppose, Wheeler was appointed to fill the vacancy occasioned by Grant's resignation. No entry is made of the resignation; none of the new appointment of Wheeler. Yet we are told that this is all legal; and that, too, by an honorable member who charges others with resorting to "sophistical" reasoning and "cob-web technicalities." Such arguments as these may be very cogent and conclusive. To me, however, they appear but bubbles, floating upon the surface of the stream. Gilded by the sunbeams, they reflect all the gaudy coloring of the rainbow; touched by the spear of truth, they burst without either noise or resistance.

Having shown, I trust, that the votes taken on Monday before ten o'clock, whilst Moses Grant acted as judge, were not received according to law, that the whole procedure was illegal and void, and that the votes so taken must be rejected, I shall now ask the attention of the House whilst I submit a few observations relative to the votes taken in the absence of the sheriff on Tuesday. These, I am satisfied, are illegal also, and ought not to be counted in deciding upon the claims of the candidates.

The sheriff in Kentucky possesses very important powers with respect to the elections, but they are not quite so extensive as the gentlemen have supposed. He is required by law to open the polls; he presides and keeps order; he scrutinizes the qualifications of the electors; unless the individual is known to him, or to one of the judges, an oath is administered by the clerk as to his right of voting. If the judges are divided in opinion, the sheriff gives the casting voice, and settles the right of the voter.

When the vote is given he cries it; when the election is over he closes the polls, takes charge of the poll-books, and carries them to the place of meeting, where all the sheriffs in the district convene to compare and add the whole number of votes, and give a certificate to the candidate elected. In addition to this, the law expressly requires that the votes shall be given in the presence of the judges and the sheriff. One would suppose that language could not well be made plainer, and that there could be but one opinion about the true construction of this law. Yet, strange to tell, our opinions differ as widely as the poles. The same gentlemen who are for conferring such alarming powers upon this officer, with regard to opening the polls, filling vacancies, &c., would have us believe, upon this branch of the subject, that his powers and duties are almost nominal. They inform us that he merely keeps order, that he only cries the votes by custom, that he gives all the information to the judges which he can, and has no voice, except as a witness, in controlling the rights of the electors! In attempting to explain away the law, and make it wholly inoperative so far as it requires the sheriff to be present when the votes are given, the gentlemen have insisted that he is not a judge of the election; that he does not decide upon the rights of the voters, (although the proof is exactly the reverse in this case,) and that, therefore, his absence is an immaterial circumstance.

To establish this position much stress has been laid upon the fact that the judges selected by the county court are compelled to take an oath of office, as judges of the election, but the sheriff is not. They are justices of the peace, selected from among the members of the county court; they have, of course, taken an oath of office before they are called upon to act as judges of the election. Yet the law requires them to be sworn again. So of the sheriff; he is a high officer, well known to the law. He too has taken an oath of office. But when he is called upon to preside at the election, he is not required to be sworn as a judge. Here the honorable gentlemen seemed to congratulate themselves upon the discovery of what they are pleased to call "a marked distinction" between the sheriff and the judges. They pause at this point and inquire, exultingly, why this "marked distinction" between the provisions of the law relating to these respective officers, if it were intended that he should perform, in any respect, the functions of a judge? Here they appear to think that the committee is completely hemmed up, without the possibility of escape.

It is strange how we often delude ourselves and others by looking only at one side of a question, or by deciding upon it without taking time for reflection. The difficulty which gentlemen have conjured up is readily removed. It is a problem that may be solved with the utmost facility. I will tell the honorable members why this distinction is made. The sheriff holds his office for two years; it is a part of his official duty to preside at every election which is held in the county during that period. Hence, when he takes an oath of office, the obligation to preside at elections is included in the oath, just as much so as any other part of his official duty. Nothing is clearer than this.

But it is not so with the justices; a man may be a justice of the peace for fifty years, and never act as a judge of the election. The county court is composed of all the justices in the county, and meets monthly. At their annual meeting, preceding the August election, they are to select two members from their own body, to act as judges at the election. They may select the same two persons year after year, if they choose, for a quarter of a century.

Where there are from twenty to a hundred justices in the county, many of them may never act as judges of an election during their lives. Still they are going on discharging all their duties as justices of the peace, both as single magistrates and as members of the county court. To ensure the faithful performance of these, an oath of office is administered to them when they are first commissioned. But should they, in the course of their lives, be appointed by the court as judges of the election, which is a separate and distinct office, then they are sworn faithfully to discharge the duties appertaining to their new appointment. Is not this a solution of the problem? It appears so to me; and I hope the gentlemen are satisfactorily answered.

The law peremptorily requires the votes to be given in the presence of the sheriff. The fact is in proof that they were not so given. He was absent from the place of holding the election during the greater part of the day, and at the time these votes were given he had no deputy there. The evidence upon these points is unquestionable, unless we adopt the theory of the gentleman from Kentucky, [Mr. HARDIN,] that Spillman became a deputy by a bare request that he would cry the votes given. I have already expressed my opinion with regard to this proposition, and do not think it possible to add any thing to the argument of my friend from Georgia [Mr. JONES] upon this subject. He totally demolished the whole superstructure.

If, then, the law and the facts are as I have stated them to be, how can any one pretend that these votes are valid, and ought to be counted upon the present occasion? Will any one insist, in this instance also, that it is a hard case; that the sheriff was necessarily absent; that this is a mere informality? Sir, we must either conduct the election according to law, or not. If we can dispense with the sheriff, we can upon the same principle excuse one of the judges from attendance; if we can allow one to go, we can spare both, and the clerk with them! Where will it end? That is the question. Can you place bounds to this principle? If so, where are they to be found? The moment we abandon the law, we are afloat upon the broad ocean of uncertainty, where we shall be drifted by the wind and tide among the rocks and whirlpools where nothing but the arm of Omnipotence can save us from destruction.

I cannot see how any friend of State rights can think of adopting the doctrines contended for upon the other side. The States have the power to regulate the time, place, and manner of holding the elections. It is expressly recognised in the federal constitution, as I have already observed. The State of Kentucky, as well as all others in the Union, has exercised this right, and fixed the manner of holding the election. Without a substantial conformity to the rule she has adopted, the election is void just so far as it is contrary to the law. The cases of Jackson and Wayne, and Scott and Easton, both decided in this House, have settled that principle. To disregard the law of the State, and confirm an election merely upon our own ideas of justice, would be a most flagrant act of usurpation. We may talk of State rights as much as we please; we may be friendly to the doctrine whilst it is our interest to be so; we may deprecate, in the most vehement and eloquent language, the tendency of this Federal Government to absorb all the reserved rights of the people and of the States; but if we disregard the laws of the States, enacted upon a subject expressly reserved for their legislation, and substitute our own will for their solemn statutes, I boldly assert that we shall have established a principle which will destroy the last vestige of liberty reserved to the members of this confederacy. Such a principle, carried out, must lead to the concentration of all power in the General Government. It would overleap the barriers erected between the authority of the central Government and the rights and powers of the several States of this Union, and would in the end lead to a tyranny as odious as the most absolute despotism.

Having shown, I think, that the twenty-five votes given at Lancaster on Monday, whilst M. Grant, Esq. was presiding, and the forty-five given on Tuesday at the same place, in the absence of the sheriff, ought not to be received, I will very briefly notice some other points that have been touched in this discussion.

The gentleman last up [Mr. HARDIN] spoke of the students of Danville College, whose votes have been stricken from the polls. The constitution of Kentucky gives the right of suffrage to individuals who reside in the State two years, or in the county one year; and requires them to vote in the county or precinct where they actually reside at the time of the election. The majority of the committee believed that the constitution did not intend that residence alone, in the most unlimited sense of that word, should bestow the right of suffrage. If this were so, aliens who might reside a year in any one county would thereby entitle themselves to this high immunity. We believed that this clause deserved a fair and reasonable construction, and that the residence intended was a permanent residence for the time, an actual home or domicil in the State. In this view of the question we found ourselves sustained by a decision of the Senate of that Commonwealth, in a contested election between Williams and Mason. Upon that occasion it was determined that a citizen of Kentucky, who had been out of the State for five years, had not lost the right of suffrage. There was no proof that he left the State permanently to reside elsewhere. This was undoubtedly a correct decision. In ascertaining the home of an individual, almost the whole inquiry turns upon the intention of the voter. Did he leave the State with an intention not to return? Was he absent on a visit or on business, or did he abandon the country?

Now, we have only to reverse this rule, that it may aid us in deciding the rights of students at a college, or transient persons of any description. What is their business in Danville, having come there from other States and counties, and remained in that place for two or three years? Is it to become citizens of that county or of the State? Is it to reside permanently, and to amalgamate with the people there; or is it to obtain an education, and then leave the place? Are they in the town as citizens, having selected it as a home; or are they only there for a temporary purpose, the time of their stay being necessarily limited? These were questions which the committee had to consider for themselves; and the conclusion at which they arrived was, that the residence of a young man at school or college, for the sole purpose of pursuing his studies, is not such a residence as confers the right of suffrage.

In this opinion they were not only confirmed by the authorities which they consulted, but by the general understanding of the community. No father believes, when he sends his son from Ohio to Kentucky to obtain an education, that by such removal the son ceases to be an Ohioan, and becomes a citizen of Kentucky? Does the son expect that, when he returns to his former residence, he will be treated as a foreigner, and be compelled to undergo a quarantine in his native county before he can exercise the rights of citizenship? Surely this is not the doctrine which prevails among the citizens of the several States who send their sons from home to be educated. Yet to such results must we come if we permit students to exercise the right of suffrage merely on the ground of their residence at college. It will hardly be pretended that they possess this right in two or three States at the same time.

Whilst upon this subject I will remark that we decided two cases with great facility and unanimity. They were

the cases of Wiley and Higbee. The former had been a student at Danville for several years; he returned home to Garrard county just before the election, voted, and came back to the college in Mercer soon after the election, to pursue his studies. The other was a student at the law school in Lexington, Fayette county. He came down to his father's, in Jessamine, a few days before the election, voted, and returned to Lexington. In both cases the committee decided these votes to be good; and, as the gentleman from Pennsylvania said of the appointment of Mr. Grant, no one complained of our decision. They both voted for Mr. Letcher.

Apply the same principle to the other students at Danville, who came there from distant States and counties, and their votes must be excluded. It was upon this principle the committee decided; and, in the opinion of a majority, ten votes were necessarily stricken from the polls as illegal.

Another decision of the majority has been the subject of animadversion. I allude to the votes which are alleged to have been improperly entered upon the poll-book, or to have been omitted by the clerk entirely. There are several of these on both sides, and proof was taken by the parties to establish the facts.

Under all the circumstances, the committee deemed it safer to rely upon the poll-books, the records made by respectable men under oath, than to permit individuals to come forward and change the whole face of the poll-book, and the result of the election, by swearing that they voted, and their names have not been recorded; or that they voted for a different candidate from the one in whose favor their names are recorded. We were not prepared to say that a case might not be presented in which it would be proper to alter the record by parol testimony; but we were clearly of the opinion that this was not such a case. No change, therefore, was made.

The committee were strengthened in their position by the decision of the Senate of Kentucky, in the case before referred to of Williams and Mason. Having such respectable authority in aid of the reasons which arise from the nature of the question, and which will suggest themselves to the mind of every gentleman, we determined to leave the poll-books as we found them.

Mr. Speaker, the case of Wilkes and Luttrell has been introduced here during this debate, and for what purpose I know not. Is it believed by the gentleman to be an analogous case? In what does the analogy consist? Do they fear that this case will be improperly decided, as that unquestionably was? If it should be, I ardently hope, sir, that some modern Junius may be found who will rouse the public attention to the subject, and never lay down his pen until he has the satisfaction to see his opinions universally adopted as a standard, and the erroneous judgment of this House expunged from our journals.

It is some time since I read the history of the case under consideration. According to my recollection of it, Wilkes was expelled by a vote of the House of Commons. The people re-elected him, by a very large majority, over his competitor, Colonel Luttrell. He appeared at the door of the House of Commons, and demanded his seat; but the House determined that his previous expulsion disqualified him from holding a seat, and that the votes given to him were void. Upon these principles they decided, and gave the seat to his competitor. They did wrong in this. Such a disqualification as they recognised, arising from expulsion, was wholly unknown to the constitution and laws of England. Even Judge Blackstone, who had written expressly upon this subject, and had not mentioned any such disqualification, was induced to come out in defence of the decision of the House. But with all his ability and learning, he was unable to sustain it, and those who took the other side of the question had no difficulty in holding him up to the public gaze as a fit subject for the ridicule of all who ranged themselves under the banner of constitutional freedom.

How do the principles of that case apply here? Who sets up new rules in this controversy? Do we? No, sir, we ask for no innovation. We want no new test. We do not complain of the criterion by which such cases have been formerly determined; on the contrary, it is the very thing we desire. We call upon the House to conform to it. We deprecate all rules, except those which are derived from the constitution and laws of our country.

One word more, sir, and I am done. I have now given my views of this subject, with some of the reasons that induce me to entertain them. It is for the House to decide who is right and who is wrong. With that decision I shall content myself, let it be what it may; believing that I have discharged my duty, and that other gentlemen will discharge theirs, according to the dictates of their own understandings. But I shall be pardoned for saying that I do most solemnly believe, if the principles advanced by the majority of the committee are adopted, then we sanction a rule that will secure to us all the privileges guarantied by the charters of American liberty. On the contrary, if the doctrines maintained by the gentlemen who oppose us shall be ratified by a decision of this House, and carried out to their legitimate consequences, we adopt a rule of the most pernicious character; a principle which, like a slow and deadly poison, will infuse its baleful influence through all our political institutions, until the proud and glorious fabric, erected by the labors, and cemented by the blood, of a valiant ancestry, will crumble into dust in the presence of their descendants, who will have lost the power to preserve an inheritance of such inestimable value.

When Mr. HAMER had concluded—

Mr. BINNEY rose in support of the amendment, and in opposition to the report of the committee. He contended that the prescription, of time, place, and manner of election, was not intended to restrain, but to promote the exercise of the right of suffrage; that these were not essential, but circumstantial forms; and that the House was bound to give effect to the voice of the people, whether these forms were observed or not. Mr. B. illustrated his views by a great variety of analogies and cases, and contended that, upon the facts presented, the votes referred to in the amendment ought to be taken into the computation. Mr. B. also contended that the votes of the theological students, at Danville, rejected by the committee, ought to have been allowed to Mr. Letcher, which, with those referred to in the amendment, would give that gentleman a majority of two votes over Mr. Moore. These positions were argued at length upon the laws and constitution of Kentucky, which alone were, he said, applicable to the case. The precedents and cases determined by the House had no bearing; the House being, by the constitution, made the judge of the qualifications of the elected, but not of the electors—which belong exclusively to the State.

Mr. BINNEY having concluded his argument—

Mr. THOMAS, of Maryland, asked leave to present the report of the committee appointed to examine the affairs of the

BANK OF THE UNITED STATES.

Mr. WATMOUGH objected; not because he wished to impede the consideration of the subject of the report, but because an important subject was now before the House, the discussion of which he was not willing to have broken in upon.

After some minutes' conversation,

Mr. WATMOUGH withdrew his objection.

Mr. THOMAS then made his report, and moved that it be laid on the table, printed, and made the order of the day for Tuesday week.

Mr. MASON said he hoped the gentleman from Maryland [Mr. THOMAS] would not insist upon the motion to lay the report upon the table.

Mr. THOMAS assenting, the motion was restricted to printing, and making the report the order of the day for Tuesday week.

Mr. SELDEN called for a division of the question.

It was divided accordingly, and, being put upon the printing, it was agreed to.

The question then recurring on making the consideration of the report the order of the day for Tuesday week—

Mr. WATMOUGH said he was desirous that the subject of the report should be brought up in time to receive the action of the House; but he could not but consider it as somewhat hasty to appoint, at this time, so early a day as Tuesday week, especially when so important a question as that now before the House was not decided, nor likely to be for some time; besides which, there were a number of bills of paramount importance still unacted on, besides other things which might be disposed of before the attention of the House should be concentrated on the subject of this report.

He did not like to make a motion to lay the report on the table, as that might be considered invidious; but he would move to amend the motion by substituting Tuesday two weeks.

Mr. CLAY suggested that, if the House should not be prepared to proceed with this subject on the day first proposed, it could then be postponed.

Mr. WHITTLESEY remarked that, if this was a good reason, it was good against ever fixing a day for the consideration of a subject. He would submit to gentlemen from the West that not a solitary bill had yet been passed for Western objects, and he would put it to them whether they would vote for any special order which was likely to defeat, by deferring, all the bills in which they were interested? For one, he was not willing to postpone all matters of this kind, to bring back the bank question.

Mr. VANCE said he was not opposed to the fixing of any day the committee might prefer. He hoped his colleague would withdraw all opposition to the proposition.

Mr. WATMOUGH said, that as he had received from the gentleman from Virginia [Mr. MASON] and a gentleman on his left, the assurance that it was not the wish or purpose of the committee to interrupt the consideration of the appropriation bills, and other measures of general importance, he should withdraw his amendment.

The motion of Mr. THOMAS was then agreed to; and the consideration of the report of the bank committee made the order of the day for Tuesday week.

Mr. E. EVERETT, from the same committee, then presented a report from the minority, which was, in like manner, ordered to be printed, and made the order of the day for the same day.

Mr. VANDERPOEL moved for the printing of an extra number of ten thousand of both reports.

Objection was made.

Mr. CLAYTON moved an adjournment.

On this motion, Mr. BEARDSLEY demanded the yeas and nays.

They were taken accordingly, and stood: Yeas 87, nays 92.

So the House refused to adjourn.

Mr. MILLER now asked leave to move for the printing of an extra number of the reports.

Objection being made, he moved to suspend the rule.

The CHAIR pronounced this motion not to be in order.

Mr. MILLER then moved to postpone the consideration of the subject now before the House.

On this motion Mr. JONES demanded the yeas and nays.

Mr. MILLER withdrew his motion to postpone, and moved to lay the report of the Committee of Elections, together with the amendments thereto, on the table.

Mr. JONES demanded the yeas and nays.

Mr. MILLER withdrew the motion.

Mr. McKINLEY moved to adjourn.

Mr. BEARDSLEY demanded the yeas and nays.

Mr. GHOLSON demanded that the hour be recorded on the journal, (viz: half past four o'clock.) It was ordered.

Mr. CLAY insisted that a motion to adjourn was not in order, as the House had negatived such a motion a few minutes since, and no action of the House had been had since.

The CHAIR admitting the motion—

Mr. CLAY took an appeal, but afterwards withdrew it.

The yeas and nays were then taken, and stood: Yeas 92, nays 88.

So the House adjourned to Monday next.

MONDAY, MAY 26.

GLOUCESTER COUNTY (VA.) MEMORIAL.

The consideration of the memorial presented by Mr. WISE, on the 13th instant, with the resolutions, &c. moved by him, which were the special order for this day, was (owing to the absence of Mr. W.) postponed, on motion of Mr. E. WHITTLESEY, until Monday next.

YORK COUNTY (PA.) MEMORIAL.

The memorial from the inhabitants of York county, Pennsylvania, for the restoration of the public money to the Bank of the United States, and for the recharter of the Bank of the United States, coming up as the unfinished business—

Mr. BARNITZ moved that the said memorial be referred to the Committee of Ways and Means with instructions to report—

"That the removal of the deposites of the moneys of the United States, made prior to the 1st of October last, was not authorized by law.

"That the reasons assigned by the Secretary of the Treasury for removing and withholding the deposites from the United States Bank are insufficient. That a bill be reported to recharter the United States Bank, with such limitations and modifications regarding the capital stock and the powers and duties of the directors as the committee deem expedient."

In support of the resolution, Mr. B. entered into an argument embracing views of the policy of the Government in relation to the custody and legal disposition of the revenue, the powers of Congress, and the rights, duties, and obligations of the bank; and not having concluded his remarks, the further consideration was postponed until Monday next: Ayes 79, noes 42.

NORFOLK (VA.) MEMORIAL.

The memorial and resolutions adopted by a meeting held in Norfolk county, Virginia, in favor of the restoration of the deposites of the public moneys to the Bank of the United States, being taken up—

Mr. LOYALL said that the memorial and resolutions before the House, from one of the counties of his district, disapproved, in strong terms, the course of the Executive, in relation to the Bank of the United States. They are signed by largely upwards of four hundred persons, represented to be a majority of the voters of the county; and as one of the resolutions of the series instructs me, said Mr. L., as far as these memorialists can instruct me, to vote for the restoration of the deposites, it is incumbent upon me to state the grounds of the vote, which your journal will show, I have already given upon that proposition; contrary, I own, to the wishes of a large portion of my constituents, yet under a deep sense of all the obligations of

the trust confided to me. This duty I should have asked leave to discharge, when the proceedings of this meeting were first presented, but for the lateness of the hour. As I am perfectly aware of the impatience of the House, under any further discussion connected with the deposite question, I now promise to acquit myself of this obligation in a very concise manner.

Although, Mr. Speaker, prior to the opening of the present session of Congress, opposition to this act of the Executive did not exceed, at least in a great degree, the opposition generally manifested to the prominent measures of every administration, within a brief space after the representatives of the States and of the people had assembled here, it assumed a most lowering aspect, and the cry of usurpation and tyranny was soon echoed back to the Halls of this building, from almost every quarter of the Union. A most intense sensation suddenly pervaded the public mind. By what agency it was mainly produced, and has been sedulously kept up, every one will determine for himself. Be that as it may, the "quick contagion" of the panic soon reached the good people who sent me here. Public meetings were held in almost every county and town of the district, and the proceedings of such as condemned the removal of the deposites, when transmitted to me, were laid before the House, at the earliest moment allowable by the rule. Notwithstanding the extraordinary excitement, and, I doubt not, the actual distress which prevailed among a portion of my constituents, to a degree perhaps as great as in almost any other part of the country, down to the period when the sense of this body was taken upon the resolution reported from the Committee of Ways and Means, declaring that the deposites ought not to be restored to the Bank of the United States, the aggregate of signatures upon memorials received, instructing me to vote for their restoration, amounted to about eight hundred, of all sorts; which, together with the signatures upon the one now submitted, make the whole over twelve hundred. Admitting then every name upon the several memorials which had reached me, when I was called upon to vote for or against the resolution of the committee, as a duly qualified voter, the sum total, as I have stated, was about eight hundred. The meeting which adopted this memorial was held on the 6th day of March, more than two months previous to the date of its reception; leaving me, during this tedious lapse of time, without even notice of its adoption, from any one authorized to communicate it, whilst, too, no doubt could be entertained that the question upon which it was proposed to instruct me would, in the interval, be disposed of.

Holding myself in all things bound to submit to the guidance and control of a majority of my constituents, to give effect, in all cases, to their expressed will—implicitly to obey that sovereign mandate, except when it cannot be done without dishonor and a perjured conscience—I anxiously looked, from the earliest movement in my district upon this question, for such an expression of popular sentiment as would indicate the path I should pursue. Is this such an expression of that sentiment as should satisfy me that I stand opposed to a majority of the voters of my district? Does it, taken in connexion with other circumstances, furnish such strong presumption of disagreement as to require of me either the surrender of the clearest and strongest convictions of my deliberate judgment, or of my seat here? These are inquiries with which I have no wish to trouble the House; but I will proceed to state very briefly the reasons that have brought me to conclusions which, I regret to say, are not sustained by this very respectable portion of my constituents.

Having ever held the opinion that Congress, in incorporating the Bank of the United States, acted without authority from the constitution, and that serious evils have resulted from this assumption of power, I could not hope that my opinions upon the deposite question would be altogether free from the bias of those long-settled convictions. I have, as far as possible, however, divested my mind of all prejudice derived from the impure origin of this institution, and endeavored to view the question in its more direct connexion with the powers of the Executive, and its influence upon the great interests of the country.

I do not propose, sir, to trespass upon the House by entering at large into the discussion of these grave matters; but merely to touch a point or two, suggested by this memorial. The pain I experience in finding myself at variance with the memorialists is somewhat alleviated by the moderation of their views, contrasted with the inflammatory denunciations too often heard here. They speak, in the first place, of this as a "movement undertaken by the Executive upon his own mere responsibility, without the concurrence of Congress." If, in this, they have reference to that section of the bank charter which authorizes the transfer of the deposites, whether the responsibility rests with the President himself, or the Secretary of the Treasury, or with both, it is the first time I have heard a doubt suggested from any quarter that the transfer may not legally and properly be made, before any action of Congress upon the subject. The charter prescribes that "the deposites of the money of the United States, in places in which the said bank or branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case, he shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session, the reasons of such order or direction." It is obvious, then, that this "movement," as the memorialists term it, may be "taken" not only without the concurrence of Congress, but it is not until the Secretary has exercised the power reserved by the charter, that the concurrence or non-concurrence of Congress is called for, or can be had.

This, I dare say, is a view peculiar to the author of the memorial, and was, doubtless, overlooked by many in the hurry of signing their names, which we may readily imagine often happens in such cases. When the Secretary of the Treasury, under this section of the bank charter, which is nothing more than the express reservation of a pre-existing power, shall direct the deposites of the money of the United States to be withdrawn from the said bank, or branches thereof, and has proceeded to lay before Congress the reasons which induced him to give the order, the whole matter is under the control of Congress, subject to such further direction as in their wisdom may seem fit.

Now, sir, this angry and protracted controversy has arisen out of the act of the President in displacing one Secretary, who would not withdraw the deposites from the Bank of the United States, and appointing another, who caused them to be withdrawn; and it involves the extent of the President's control over his cabinet officers, together with the right of the Secretary of the Treasury to withdraw and withhold the deposites of the money of the United States from the bank, under a just and fair construction of this provision of its charter. These questions lie within a very narrow compass, and if we could by any means disentangle them from the fierce struggle of conflicting parties which has been carried on, if not in this House, most certainly elsewhere, with far different views than to settle them according to the constitution and law, we should find them neither difficult nor complicated.

The Executive power of the United States being vested by the constitution in the President, it is his paramount duty, and almost his sole function, to superintend the several departments established by Congress, and see that the laws are faithfully executed. He is required, by

and with the advice and consent of the Senate, to appoint all officers of the United States, whose appointments are not otherwise provided for, and which shall be established by law. The participation of the Senate was intended only as a check upon the power of appointment, which, without some such check or guard, might be exercised, on occasions, to confer offices on persons unworthy, or manifestly unfit to fill them. To this single object, of seeing that competent individuals are appointed to office, the action of the Senate is confined, the power of supervising and directing those who execute the laws resting exclusively with the President. The Treasury Department, as well as the other Departments, unquestionably exists by the will of Congress: they are created by the Legislature, and the same power may, at any time, destroy them. But, so long, as by the constitution, the power of appointment, qualified as I have stated, rests with the President, the heads of these several Departments are, in all matters appertaining to the duties of their offices respectively, subject to his supervision and control, and to removal under responsibility for the rightful exercise or abuse of the power. And the power of removal does not depend upon legislative grant, (though confirmed, after full debate, by a solemn expression of the sense of the Legislature in the act of '89,) but flows directly from the Executive office, and is restrained only by the discretion of the President, under the constitutional guarantees against its undue exercise. It matters not, then, by what name we may please to call the Treasury Department, whether Legislative or Executive, (no one, I presume, will be disposed to baptize it Judicial, though some of its functions partake, in a degree, of that character,) the duties devolving upon the officer who presides over it are, in their very nature, strictly Executive; and it is, therefore, not only the right, but the duty of the President, in whom the Executive power is vested, to supervise and control, and, when necessary, to remove him. Any argument drawn from the possible or probable abuse of this power, is altogether illogical, and, if entitled to any notice whatever, goes to impugn the wisdom of those who framed the constitution, and does not touch the question properly before us.

This, sir, I have ever considered as the true theory of the constitution, carried out in practice under every administration. But a new faith has suddenly sprung up, and all who will not subscribe to its dogmas—maintaining that "unity and competent powers are essential to the Executive"—are branded as the advocates of usurpation and despotism. For myself, I utterly repudiate this spurious reading of our fundamental charter, which aims to strip the Executive of all power, and practically to annihilate one of the great co-ordinate departments of this Government. I will never consent to shift a solitary particle of the power, vested by the constitution in the Chief Magistrate, to other hands than those chosen by the people, who look to the President, and hold him responsible for the faithful execution of the laws. In England, "the King is unaccountable for his administration—the council furnishing a substitute for the prohibited responsibility of the Chief Magistrate." With us, "the ingredients which constitute safety, in the republican sense, are: a due dependance upon the people, a due responsibility." And when we look into the constitution for the guarantees of this responsibility of the President, we find them amply provided in "his election once in four years by persons immediately chosen by the people for that purpose, and his being at all times liable to impeachment, trial, dismission from office, incapacity to serve in any other, and to the forfeiture of life and estate, by subsequent prosecution, in the common course of law." If the recusant Secretary, in this case, had insisted on the removal of the deposites against the judgment of the President, and his removal from office had become necessary as the only means of arresting a measure deemed by the President not only inexpedient but illegal, I apprehend we should have heard but little, at all events, from the friends of the bank, of this tremendous responsibility, this alarming usurpation, tending to the concentration of all power in the hands of one man, and just as little of the discretion reserved by the bank charter being exclusively confided to the head of the Treasury Department.

No one now seriously maintains, I believe, that the right to remove the deposites depends for its exercise merely upon the safety of the public money; nor that the refusal of the bank to comply with any of its stipulated engagements constitutes the only ground on which the deposites can be withdrawn. The terms in which the power is reserved are too broad and comprehensive to give even a shadow of pretence to any such construction. Whether or not the reasons which, in compliance with the requisition of the charter, the Secretary of the Treasury has laid before Congress, are such as rendered the measure expedient and proper—whether or not it was called for by the public interest or convenience—it would be out of place to discuss here. As far as the rights of the bank are concerned, however, I feel no hesitation in saying that the removal of the deposites from its custody was entirely justified by transactions which clearly show a deliberate, systematical design, in that corporation, to acquire strength and influence, in utter disregard of the essential objects of its creation, and the fundamental articles of its charter. If the charter has been violated by the removal of the deposites, the bank is unquestionably entitled to remuneration. Yet we have heard, from no quarter, that compensation ought to be rendered for this alleged invasion of its rights. The truth is, there is about the same foundation for the charge of broken faith in the one case, as for the assumption of unconstitutional power in the other.

I am instructed, as far as this portion of my constituents can instruct me, to vote for the restoration of the deposites. If, sir, I entertained a different opinion in relation to this Executive proceeding—if I really conceived that the President has assumed the exercise of a power over the treasury not granted to him by the constitution and laws—that the act of the Secretary of the Treasury, directing that the deposites of the public money shall not be made in the Bank of the United States, was illegal, and should be regarded as the bitter source of all the distress, embarrassment, and ruin, already endured, and, as we are warned, still greater in prospect—if I had enough of the genuine Whig spirit to stand up against this monstrous usurpation—even in that case, believing as I do that to restore the deposites would inevitably lead to the recharter of the bank, I could not, in common decency, vote for their restoration. My opinion upon this constitutional question was openly declared, and severely canvassed throughout the district; and elected as I was with a full knowledge of my uncompromising opposition to the bank in every possible aspect, I could not, without a flagrant breach of the trust confided to me, record a vote here, tending directly, according to my view, to prolong the existence of this corporation beyond the limitation of its charter, and thereby eventually, through its vast moneyed influence, to build up an extraneous power, setting at defiance the utmost control of the Government; for rail as we may about lawless pretensions and Executive encroachments, I would rather encounter the most daring usurpations which, masked under any other forms of law and the constitution, the reckless ambition and unholy passions of the very worst men could bring to bear against the liberties of the people, than meet this corporation, secure in her dominion, and arrayed in all her chartered privileges, during another term of twenty years.

The memorialists pray Congress "to take speedy meas-

ures to return to the Bank of the United States the public revenue, to quiet the people, to restore confidence to the country, and prosperity to the land." These are certainly most desirable ends. But is it the part of wisdom and prudence to take the measure proposed, for the purpose of relief, of mitigating the existing pressure, and allaying the general discontent, when, if the charter is not to be renewed, all the multiplied evils of pecuniary embarrassment and suffering now alleged to prevail must fall with redoubled severity upon the country within a period of less than two years? If the bank is to be rechartered, I grant, the sooner the deposites are restored the better, for then their removal would no longer be used to subserve the purposes of party—the excitement, agitation, and panic which have produced snch distressing effects would disappear, and we might hope to escape, at least for a season, from the throes of that furious struggle, in which, under the auspices of a most formidable political league, the bank and press are engaged to break down this administration.

This corporation seems to be regarded by its more ardent friends as the "staple article of our moneyed system." It was created not long after the late war with England, with the confident prediction that it would bring about a thorough reform in the currency of the country. It was alleged that by means of such an institution only could the mischiefs of a depreciated paper currency be arrested, the tendency of the local banks to overtrading be controlled, and a sound and healthful circulation maintained. "In the preference given to its notes by the Government, and its being made the depository of the public revenue, had its operations been conducted on sound principles, doubtless this bank might have effected much good in relieving the community from the evils of a general suspension of specie payments by the local banks. But, instead of going to work in good faith to realize the predictions of its advocates, its beneficence was displayed in a total departure from all the established principles of banking, its benefits were illustrated by temptations thrown out, without stint or measure, to cupidity and extravagance, in the disastrous results of extensive loans to farmers, manufacturers, traders, speculators, and to stockholders, to enable them to pay for their shares of the capital." The bank commenced active operations in January, 1817, and, within a little more than two years, we were told by Mr. Cheves (who, at a most critical juncture, had been invited to preside over its affairs) that "in Philadelphia he found no one, in or out of the bank, who entertained a sanguine belief of its being able to sustain its payments much longer, and that the nation was about to suffer the calamity of a currency composed entirely of irredeemable paper."

The great object proposed by the establishment of this bank, besides a sound currency, was to correct the prevailing "disorder of over-trading, brought on by over-banking." And how was this accomplished? By flooding the country with its own paper, thus affording a temptation to the local institutions to aggravate the evil by still more extensive issues. Within the brief period named, the country was involved in a most disastrous state of pecuniary embarrassment and suffering; heavy and oppressive curtailments were resorted to. "The bank was saved, but the people were ruined." Every portion of the community groaned under the pressure—commercial credit prostrated—trade paralyzed—"the whole train of mercantile operations deranged"—real property greatly depreciated—its rents or profits rapidly declining—the price of every staple article reduced—thousands of able-bodied men wandering about the streets of the larger cities, unable to find employment. This dismal picture, taken from the journals of the day, exhibits some of the early results which followed the establishment of the present bank. Yet I am disposed to concede all the advantages claimed for it, and the greatest of all—its capacity to furnish a more uniform and perhaps a safer currency than the local banks. Still, this is no counterpoise to my objections, even on the score of expediency. For one, I would rather submit to the partial evils of an unequal currency, than be exposed to the tremendous influence of a moneyed corporation, capable at any moment, from its peculiar organization and machinery, of raising or depressing the value of every article of property in the country. I would rather incur a small loss in the shape of exchange, than that the price of every thing we have to buy or sell shall be subject to the capricious edicts of a secret, irresponsible divan in Chestnut street or elsewhere; at one time granting extensive loans and accommodations; at another, by its merciless contractions, crushing trade, industry, and enterprise; to-day engaged in discounts and exchanges; the next, devoting its patriotic labors to politics and the press.

To what extent the removal of the deposites may have operated as the remote cause of "the great and general pressure, and rapid depreciation of certain staples," of which the memorialists complain, I am unable to determine. It cannot be said, however, that the reduction of discounts by the bank has been governed by the amount of public deposites taken from its vaults; for we find that when its curtailments commenced, on the 1st of August last, (two months before the removal of the deposites,) the amount on deposite was $7,599,841; on the 1st of December it was $5,162,259, making a reduction of $2,437,582; on the 1st of August its discounts amounted to $64,160,349; on the 1st of Dec. they were $54,453,104—showing a very large disproportion between the reduction of discounts and the diminution of deposites. How far the operations of the United States Bank contributed to the state of things which led to the overtrading and excessive importations of 1831, we may readily conceive, when the statements, in October, 1829, show a total of discounts and bills of exchange of $39,969,052; and in May, 1832, a total of $70,428,070. "In the short period of two years and seven months, there was an increase of $30,668,018 in the accommodations the bank afforded to dealers." Under what circumstances, political or otherwise, this enormous augmentation of loans was made, it does not fall within the scope of these desultory remarks to inquire; they form a part of the history of the times; and had it pleased the President and his associates to allow an examination into the more recent operations and present condition of the institution, the details thus elicited, with this increase of facilities, might have furnished together a mass of interesting information, financial and other, calculated to clear up many points at present not a little controverted.

I did not intend, sir, to have trespassed so far upon the indulgence of the House. What I have said is merely in defence of my own conduct. It is painful to me to oppose the wishes of any portion of my constituents. If the vote which I have given upon the deposite question is not ultimately sustained by a majority of the district, the trust confided to me must pass into other hands. I have endeavored to execute it in good faith; and I feel that my whole course, in relation to the United States Bank and the deposites, has been governed by a most rigid and scrupulous regard to the just demands of popular sentiment.

There is one thing in which I entirely agree with the memorialists—that is, as to the importance of the present crisis. Indeed, I question much whether there has ever before happened a period more directly involving the fate of popular rights—so pregnant with consequences deeply and vitally affecting the great principles of our Government. And what has produced this portentous state of things? Was it the simple act of transferring the deposites of the money of the United States from this bank to

other places of safe-keeping, wheiher done by the President himself, or by the Secretary of the Treasury? Is it that this corporation has been wantonly stripped, as is alleged, of one of her chartered immunities, by the ruthless hand of Executive usurpation? that the public faith has been trampled upon by a power that acknowledges no law but the dictates of its own rash, unbridled will? I would not venture to affirm that very many in this body, and elsewhere, do not honestly entertain that opinion. But of this I am as perfectly confident as I can be of any thing, that, within less than twelve months from this day, nine-tenths of the people of the United States will laugh to scorn an idea in my view so utterly preposterous. Sir, the ominous speculations of a certain class of political soothsayers are destined to a most woful disappointment. The gloom, and distress, and panic, must pass away, as the incantations of the enchanter cease, and the country will rise from the pressure, if not with increased wealth, the wiser and better, and with renewed energy to withstand future trials. The independence of the people of the United States is not to be broken down; their spirits are not to be subdued by the formidable discipline, the disastrous energies, of an overshadowing colossal moneyed power. It cannot be that the events of the last five months, and especially the scenes enacted here, will escape the jealous vigilance of the people. They cannot fail to perceive that the just retaliation brought upon this bank by its own gross misconduct has been met by a resistance calculated to rouse the serious alarms of every man who would repel the encroachments of a corporate despotism that threatens to overthrow every principle of the constitution; and, in the language of one who would seem to be touched with almost prophetic inspiration, "to convey our liberties to a sepulchre of gold."

MEMORIALS FROM WASHINGTON AND ATHENS COUNTIES, (OHIO.)

The petitions from the inhabitants of Washington and Athens counties, Ohio, heretofore presented, being next in order--

Mr. VINTON, for the purpose of enabling him to give his views on the distressed state to which the country of the memorialists was reduced in consequence of the recent measures of the Executive, moved the following:

Resolved, That the memorials from the counties of Washington and Athens, in the State of Ohio, be referred to the Committee of the Whole on the state of the Union, to which has been referred the bill to regulate the deposites of the money of the United States in certain local banks, with instructions to strike from said bill all after the enacting clause, and insert, in lieu thereof, A bill directing the deposites of the money of the United States to be hereafter made in the Bank of the United States, and for the renewal of the charter of said bank, with such modifications thereof as said committee shall deem expedient.

Mr. VINTON, having addressed the House at length, finally withdrew the resolution; and the memorials which he had presented were then referred to a Committee of the Whole on the state of the Union, and, with the names thereto, ordered to be printed.

Mr. VINTON'S remarks were as follows:

Mr. Speaker: I did not move at the last petition day to lay over the consideration of the memorials I then presented, for the purpose of making a set speech on the topics they bring to the notice of Congress, as the motion might seem to indicate to have been my intention; but I did so from an unwillingness, weary and exhausted as the House then was, to trespass on the patience of the members, by calling for their reading at the late hour of the day, when, by the rules of the House, it became my turn to offer petitions and memorials. Nor is it my intention now to go into any argument upon the grave subjects presented by the memorialists; but the memorialists themselves are entitled to some notice from me, and I cannot, in justice to my own feelings, pass them over wholly in silence. These memorials come from the counties of Athens and Washington, in the State of Ohio. They are each signed by about eleven hundred freemen. From the county of Athens, I am informed that, on the approach of the advanced period of the session of Congress, the memorial was transmitted while it was still in circulation in a portion of the county. At the last presidential election, that county gave 1,344 votes, of which the Clay candidates claimed a majority of ninety votes only over the Jackson electoral ticket. The vote in the county of Washington was somewhat greater, with about the same division of parties.

These facts are stated for the purpose of showing the unanimity of sentiment in those counties in respect to the policy and legality of the recent attempt of the Executive, by means of his action upon the public revenue, to control the currency and exchanges of the country, and, through them, the credit, the business, the markets, and the price of labor and property in all parts of the Union. This is an exertion of power, and these are interests which the memorialists do not think have been, and cannot be safely, committed to the will of any one man, since it would make that man their master, and not their servant.

I will not detain you by an enumeration of the embarrassments and difficulties under which the memorialists state they are now laboring, since, with the exception of some local peculiarities, the result of their geographical position, and the course of their trade, they are substantially those which have disordered the industry of all parts of the Union. The memorial from the county of Athens, which is drawn up with a peculiar felicity of manner, introduces their statement of their grievances by saying, "they are sensible that, in ordinary times, patriotism is best manifested by the discharge by every individual of his own appropriate duties, leaving, in the exercise of a liberal confidence, the management of the public and general interests wholly in the hands of those to whom they have been constitutionally delegated." I avail myself of this opportunity to bear testimony to the truth of this declaration in respect to the people of the county of Athens, and to the rest of the district that sent me here.

In all the conflicts of interest and policy, so agitating to the country, which have been fought here for the last eleven years, during which I have had the honor of a seat on this floor, they have never sent up a memorial to this House, or instructed me as to their wishes, on any subject involving the general interests of the country. They have acted upon the principle which they avow; and it is with grateful pride of feeling that I am able to declare that they, "in the exercise of a liberal confidence," have, during all that time, left me to act for them, as a freeman, according to the dictates of my own unbiased judgment. They have not remained silent from indifference to the great questions which, during that period, have so deeply agitated the whole community, nor from ignorance of what has been transacting here. They are a reading, thinking, hard-working people; and in respect to the counties of Washington and Athens, whose memorials I now present to you, I can truly say, without disparagement to any other district of country, that there is not, beyond the Alleghany mountains, a people more eminent for sobriety of habits, social order, and general intelligence. I left them a happy, prosperous, and contented people. Their past silence bears them witness that they have not come up here now to give countenance to an idle clamor, or to enjoy the empty gratification of being presented to the notice of this House. When, therefore, they lay their complaints, for the first time, before this House, and instruct me, as one of those counties has done, as to their wishes; when they in substance say that sudden

and unlooked-for derangement and distress have come upon them; that their labor has been robbed of its reward; their hopes blighted, and their prosperity stricken down by the strong hand of power, I am bound to believe they are in sober earnest, and speak to us of solemn realities.

The memorial, sir, from the county of Washington, aside from its own intrinsic merits, is entitled to the respect of Western gentlemen, from the place whence it comes, and from the names that are upon it. It comes from the spot where, and it has upon it the names of men who, at the close of the Revolution, made the first lodgment in that then distant wilderness: of men who, under the auspices of the old confederation, helped to put in motion the machinery of Government over a wilderness of almost boundless extent and unrivalled fertility: of men who assisted at that spot to plant deep in its fruitful soil the germe of social order, of industry, of law, and of religion: of men who, by the blessing of God, have lived to see the infant community they then planted, in the midst of toil, of suffering, and of peril, grow up into maturity, divide itself into several independent communities, with a physical power little inferior to the united strength of the American colonies at the period of the Revolution. It is by such men, and the sons of such men, that this memorial is made up. They are entitled to be listened to with respect. They have never come here as complainants before; nor would they complain now, if "the Government" would let them alone, and desist from its "experiment" upon their affairs. My constituents cannot but know that the President has only to will it, and they are restored to their lost prosperity and happiness. But they have sent no petition to him, who is the author of their grievances, doubtless from a conviction it would avail them nothing. For, sir, they cannot but have heard that the hand which seized upon the public treasure has shut the doors of the Executive mansion in the face of the people, who come to pray for mercy and for relief—that "he did not want to be pestered with their complaints." But, after all, the hard-working, straight-forward, single-minded people, who have sent their memorial here, have no adequate conception of that obstinacy which, sooner than yield a point of personal feeling—sooner than correct the evils of a mistake committed, perhaps from an error of judgement—sooner than waive, in any particular, the claim set up to Executive infallibility, will sit by in sullen coldness, and, with the power to relieve, suffer the business of millions to be disturbed, and ruin to come upon thousands. Yet this is a faithful portrait of what is now passing before our eyes.

They have sent their memorial to this House, knowing also that there is here a legal power of relief; no doubt from a hope that something will yet be done; indeed, from an incredulity that Congress can have the heart to adjourn without attempting to do something to restore the country to its wonted prosperity. Men who are suffering, perhaps threatened with ruin, have no conception that, if their condition is rightly understood, this House will not relent—that relief will not be granted, where the remedy is plain, easy, and at hand. And it was, I presume, upon this supposition, that the respectable meeting which adopted one of these memorials sent up a request to me to use my exertions in their behalf. My private correspondence also shows that the people at a distance will not, and cannot, believe that no relief is to be granted. To my constituents, who, as their immediate representative and protector here, have called on me for aid, I tender my sincerest sympathy; but I am constrained to say that I have no power to help them. If they think the majority in this House will relent—if they hope for relief, or look forward to an end to their sufferings while the power of the country remains in the hand where it is now deposited, I desire here, from my place, to undeceive them.

I consider it my duty frankly to tell them that, in my opinion, there is in the majority no disposition to relieve them; that nothing will be done for them; that it is the settled intention to leave things as they are, regardless of the ruin that must follow; that near six months of the session have passed away, with less hope now of relief than when Congress convened; that argument, reason, and entreaty, have been employed, and exerted their utmost power in vain; that their memorials had been preceded by like prayers for relief, of from one to two hundred thousand of their suffering fellow-citizens from all parts of this extended country, which lie lifeless and unheeded upon your table. And, finally, I desire to say here, from my place, to my constituents, and to all whom it may concern, that they must look to themselves for relief; that they must, at the ballot-boxes, dislodge from place those who now oppress them, and to whom, in a confiding and incautious moment, they intrusted the keeping of their dearest rights, and that power which has been turned against them; that they must make up their minds not only to suffer, but that the condition of the country will grow graudally worse, till a remedy can be obtained in that way. If, Mr. Speaker, I shall have satisfied my constituents, or any body else, of the truth of what I have now said, I shall have accomplished the only end I could hope to attain by throwing myself upon your attention.

JONES COUNTY (MISS.) MEMORIAL.

The memorial of the inhabitants of Jones county, Mississippi, sustaining the course of the Executive in its recent measures against the Bank of the United States, coming up—

Mr. PLUMMER rose, and said that a voice had at length been heard from the working men of Mississippi. His predictions on that floor a few weeks ago had been verified. The democracy of that State, he said, had arisen in their might, and had resolved to live free or die. They have resisted the temptations held out to them by the bank. They have indignantly refused to sell their liberties, so dearly purchased by the blood of their fathers, to a moneyed corporation, for a few millions of rag-money dollars. They have, like the patriots of the Revolution, borne the pressure of the times until the last turn of the screw, without a murmur or a groan; and then, as if by enchantment, burst asunder the whole machinery by which the United States banking institution sought to cramp, confine, and enslave them; and added another chapter to the evidence already adduced to prove that the people are the source of all power. The voice of that portion of the people of Mississippi, who had at all times stood by him and sustained him in his efforts to put down the aristocracy of the State, and raise the standard of equal rights and equal privileges on its ruins, has at length been raised, said Mr. P., and the echo has reached the halls of the national Legislature. The citizens of the county of Jones, in that section of the State of Mississippi where there was as much patriotism, as much love of liberty, as much devotion to our free institutions, and, he would venture to assert without the fear of contradiction by any one who knew the people as well as he knew them, in that section of the State, where the people were more ready to defend from violation the principles of that constitution handed down to them by the sages of '76, and more ready to resist the encroachments of power upon their rights and liberties, than any portion of the people of the Union, convened at the court-house, on the 19th day of March last, and resolved: That they had unshaken confidence in the integrity, firmness, and patriotism of the present Chief Magistrate, who has so often received the unqualified approbation of a large majority of his fellow-citizens; and that the course which he has pursued in relation to the United States Bank, particularly as evidenced by the removal of the deposites from that institution, increases and strength-

ens his claims upon the gratitude and admiration of his countrymen: That they approve of the course pursued by the Secretary of the Treasury (Mr. Taney) in removing the public deposites, and that the removal of the people's money from an institution so dangerous and corrupt was but an act of justice to the outraged, moral sentiments of an abused and unsullied people: That they view with contempt the conduct and course pursued by the bank party at a public meeting lately held at Natchez, which they conceive to be a prelude to worse times, if the bank should succeed in obtaining a recharter: That the recharter of the United States Bank was, in their opinion, dangerous to our present democratical form of Government, to the rights and privileges of the people, and should be opposed by all good men. And they further resolved, that they viewed with regret that some of their public men had become like cattle in the field, subject to be bought and sold.

The working portion of the community, he said, were the last to become excited upon a question of great national importance, and the last to make a movement towards expressing their sentiments in relation to the affairs of Government; but when they do move, said Mr. P., their course is like the rushing of the mighty winds; their might is like that of the waves of the ocean; the force of their opinions is like the power of the boisterous hurricane, driving every thing before it, and humbling to the dust the haughty oaks of the political forest that refuse to bow submission to their opinions. There is no power on earth that can withstand their influence. Neither the officers of a free Government, "clothed with a little brief authority," nor the monarch on his throne, with absolute sway, can resist their mandates. There was, he said, a Latin maxim which he had often heard quoted by those who had a knowledge of that language, the meaning of which he understood to be, "the voice of the people is the voice of God." If such, said he, is the power of the people, who can stand out against their expressed opinions? It is true, sir, said Mr. P., we hear those who set themselves up as the rulers of the people, but who in fact are their mere servants, declare their intention "to discard every thing like party action, when they shall be called to decide upon the great leading principles of Government;" notwithstanding, however, their declarations and professions, when they see the expressions of the working men of the country written on the wall, they will tremble before the omnipotent political power of the people, and their knees will smite together like Belshazzar's. Standing as he did, by himself, in opposition to the aristocracy of the State, professing to advocate the principles of the working men, at a time when it seemed that the bank had purchased the liberties of the people, so far as individuals could be found to sell themselves, and had forced others, by the exercise of her all-controlling influence, to bow submission to her mandates; it was, he said, gratifying to his feelings to find, when opposed, abused, persecuted, and vilified by the advocates of the bank, and frowned upon by the blind followers of men disregarding principle and professing to support the measures of the present administration, that he was sustained by those who had stood by him in all of his political struggles for principle in opposition to the combined influence of National Republicanism, Nullification, and Jacksonism. The name of Jones county, and her old and faithful representative, (Samuel Ellis,) the chairman of the meeting, with whom he fought side by side, in the Legislative councils of the State, for those democratic principles now recognised as the constitutional law of Mississippi, operated on him, he said, like a charm, was music to his soul, and encouraged him to redouble his exertions in support of the efforts of the Chief Magistrate to relieve the people from the rag-money bondage of the bank, and the haughty power of an irresponsible moneyed corporation, calculated to prostrate the rights of the States and destroy the liberties of the people. The people who composed that meeting are not man-worshippers; they are not the blind followers of any man or set of men; they support the measures of the administration when right, and oppose them when wrong; they have decided that the body politic has not become so debilitated, nor the energies of the people reduced so low, that the Government cannot continue to exist without a moneyed monopoly to lean upon for support. They have said that they are not prepared for slavery; they have shown themselves worthy of that rich inheritance handed down to them by the patriots of the Revolution; they have declared themselves capable of self-government. Public meetings, Mr. P. said, had been held by the people, in different parts of the State, got up by the aristocrats, the National Republicans, Nullifiers, Tariffites, and those indebted to the bank, denouncing the administration and his course on the bank question, and sustaining the rest of the delegation. False representations have been made to enlist the people on the side of the bank. Public meetings have also been called by the office-holders, office-seekers, and the Jacksonian aristocrats, and man-worshippers, self-styling themselves the democratic republicans of the State, condemning the whole delegation, without distinction of persons. But this, he said, was the first movement made by the bone and sinew of the country, uninfluenced by partisan feelings or sinister motives, for the purpose of approving of the course pursued by the administration in relation to the United States Bank. The people have been excited to action, and the political waves put in motion by the panic-makers of the bank, and nothing can appease their wrath, or calm the troubled waters, short of a total abandonment of the unconstitutional and oppressive banking system adopted by the General Government. A few weeks ago the most of the leading politicians of the State had taken a stand in opposition to the course pursued by the President, or seemed to hesitate on which side to enlist, whether on the side of the people or the bank. But one man among the literati of the State, he said, had had the firmness and independence to encourage him to stand firm in the course he had taken during the present session, and the office-holders and man-worshippers had even succeeded in destroying the confidence of the Executive in him. Things were, he said, however, getting right. The leaders would be compelled to bow submission to public opinion. The citizens of Jones county are not office-seekers. They have no other object in view than the good of their country. They have spoken the honest convictions of their hearts, without fear, favor, or affection of men, and without any reward, hope, or promise thereof. They have spoken the language of freemen, and the sentiment of the democracy of Mississippi.

These things, he said, were not confined to the State he had the honor in part to represent. They are spreading to the remotest corners of the Union. The working men of Massachusetts are awakening from their lethargy. The democracy of the ancient Commonwealth, who were the first to resist the tyranny of Great Britain, are resolved not to be the last to resist the encroachments of a purse-proud aristocracy. The republicans of Berkshire, the Congressional district represented by the honorable gentleman before him, [Mr. BRIGGS,] which he, Mr. P., claimed as his birth-place, were determined, he said, not to be outdone by their sister States in the race of patriotism, on the great question now convulsing the nation. They too, as well as the people of the South, have discovered that the tides of moneyed influence have been for many years undermining their original principles, and washing away those rights and privileges guarantied to them by the great magna charta of their liberties, before the foundations of the republic have crumbled from beneath them, and while it is yet in their power to redress

their wrongs by legal and constitutional means. They, too, are resolved not to sleep while the chains of domestic slavery are being riveted on their limbs by a haughty moneyed aristocracy. They, too, have discovered that the day is fast approaching when to assert their rights as freemen will subject them to the stigma of traitors and punishment of rebels; and that they are already denounced as tories and enemies to their country. He said he held in his hand a letter received a few days since, from a friend and relative, dated at Richmond, Massachusetts, on the 6th instant. The writer, he said, was a democrat of the old school, dyed in the wool. He is, said Mr. P., a working man in principle as well as practice. He is a carpenter and house-joiner by trade, and, by the fruits of his industry, has been enabled, for a few years past, to cultivate a farm, the proceeds of which he depends upon to support his family. He is no office-seeker, no political juggler, and has nothing but the good of his country at heart. Although the letter was not intended for the public eye, it accorded so well with his own opinions, that he could not refrain from reading some extracts therefrom, believing, as he did, that it spoke the language of the working men of old Berkshire. Mr. P. then read the following extracts:

"Permit me to return you my sincere thanks for the favors shown in sending me public documents. It has furnished me with some interesting intelligence, which I could not otherwise have obtained. You will excuse me for the liberty I take; I am neither a writer nor a politician; that you know by my writing; therefore it would not become me, as a plain farmer, or a laboring man, to write to a gentleman in the Congress of the United States, giving my views on any particular subject which they have in their trust; but having confidence, sir, that you will make allowance for my inabilities, and not expose them, I will give a few ideas of my own, however they may differ from any one else. I have just read the President's protest against the usurpation of the Senate. It is noble, patriotic; like all others of his writings, worthy of the highest place in the pages of our history. I am not master enough of language to give it the exalted station it merits. That, together with the veto, ought to be engraved in large letters of gold, and raised so high in the heavens that it can be read by every individual that inhabits this globe. I have read a small pamphlet which was sent to my friend, pretending to prove that credit is preferable to coin. When our farmers read any thing that is trying to substitute paper or credit in place of gold and silver, there is a kind of inaction and gloom upon their faces, which renders them very unpleasant. But when they read of a scheme that will do away small bank notes, and substitute specie in their stead, there seems to be a lively action, and their countenances are like the spring blossoms after a long winter.

"People in this place, I think I may safely say, are getting more and more in favor of the measures pursued by the President in relation to the bank. His most bitter enemies say they do not like so powerful an institution as that of Mr. Biddle's bank, and that it ought not to exist any longer; but do not wish that President Jackson should have the honor of pulling it down under his administration. As I view the subject, I hope and implore the goodness of Almighty God, that so powerful, overbearing, and corrupt an institution, that can give into the hands of a small class of people the power as well as influence to distress a whole nation, might in this our day be purged from our republic. If these are not your views, permit me, sir, as you have a better opportunity to form a more correct knowledge of the subject, to ask of you to give me a slight view, by way of letter. Perhaps, sir, you may think I take a great interest in this bank concern for a man in my capacity and occupation of life. I certainly do. There has never been, since 1816, in my opinion, a subject brought up before the people of the United States, that ought to wake up and call the attention of every individual citizen like this. I hope that institution, which has been called by the name of the United States Bank, will never be rechartered for any term of time, however short, upon any conditions or modifications whatsoever; for I do not think that that institution was ever properly entitled to that name. My reasons for this are, the people generally have not been led to the inquiry of the principles and situation of the bank, as they otherwise would, had it not been called by that name. Our good honest farmers have supposed, until very lately, that bills on the United States Bank were as safe, to be locked up in their chests, as the gold and silver—supposing the United States accountable for all the bills issued from that bank, and would redeem them at any future day. Now they begin to see their trust is in the hands of a class of individual speculators. Let every institution be called by the name of its proper owners. Just as I was about to close my scribbles, Mr. —— called on me; after passing the usual compliment, I inquired how the administration stood in his estimation? (not expecting any very favorable answer, knowing that he had been, ever since Jackson's election, violently opposed to his administration.) He said, he supposed I had reference particularly to the removal of the public moneys from the United States Bank. Thus far, said he, I can say, the people of the United States will yet bless Old Hickory for the decided measures he has taken with that bank. If that institution can cause so great a pressure, and create such a panic, throughout the whole United States at this time, what could it not do in a few years more? He not only spoke his own mind, but the minds of many others of the same stamp. These sayings confirm what I have already said."

Such language might not be very acceptable to those who differed with him in opinion, and those who charged every one that sustained the administration, on the bank question, with being under the influence of improper motives, and particularly to those who intimate that all who support this measure of the Executive are the "slaves and vassals of Andrew Jackson, and that they are ready to exchange the constitution and the law for the will of a weak old man." Such language needed no reply. It was, in his opinion, unworthy of that character which every gentleman on that floor ought to maintain. It was not, he said, the voice of prudence and discretion, aiming at the good of the country, but it was the language of mad ambition, reckless of the interests of the people, and every thing else, save the prostration of the popularity of the present administration, the elevation of their political god to power, and the division of the "loaves and fishes" among the hungry curs of their party. They are the fulminations of a crazed brain, distracted by being disappointed in his political aspirations. They are the ravings and rantings of that party who threaten one day to destroy the Union, rather than submit to an unconstitutional and oppressive system of taxation, which they themselves are the authors of, and the next day attempt to excite the people to rebellion, because they will not bow submission to an irresponsible corporation, about to enslave a free country, which they themselves admit to be in violation of the constitution.

Mr. PLUMMER then moved that the other series of resolutions, presented by him from Holmesville, Pike county, be postponed.

The motion being negatived--

Mr. PLUMMER delivered a speech of considerable length on the subject of these resolutions, and then moved that they be laid on the table and printed. Agreed to.

HALLOWELL (ME.) MEMORIAL.

Mr. EVANS said he was happy, after so long a time,

in having it in his power to present to the House a series of resolutions, and a memorial, from the citizens of the town of Hallowell, in the State of Maine. These papers had been in his hands (Mr. E. said) several weeks; but this was the first opportunity which had occurred to him to bring them to the notice of the House. The memorial is subscribed by a large proportion of the qualified voters of the town, and by none but qualified voters; and the occupation of each signer is affixed to his name. From my own knowledge of the larger portion of the persons whose names are appended to the memorial, I have no doubt that the descriptive character of the signers is truly set forth. It will thus be seen, sir, that the memorial proceeds from persons of every pursuit and occupation common to our citizens; and I can add, with perfect truth and sincerity, that it proceeds also from persons of the highest respectability in the town from which it comes—a town among the most important in point of population and business in the State to which it belongs. The memorialists represent that "they have fallen from a condition highly prosperous, to one of no ordinary degree of distress;" and it proceeds to state wherein their business has been depressed, and the occasion of the evils which have fallen upon them; and it prays the prompt interposition of Congress to arrest the progress of the calamity which is spreading over the land, and to restore again peace, and prosperity, and confidence. The embarrassments which now pervade the country are attributed, in the resolutions which I offer, to the "unauthorized interference of the President with the currency of the country;" and the memorial protests against all experiments upon the currency, unless made by Congress, upon the fullest and most mature deliberation.

Sir, I have already, to the extent of my humble powers, co-operated with honorable and able gentlemen of this House, in resisting this unauthorized interference of the President, and in endeavoring to bring back to the control of Congress the currency and the treasure of the nation. Would to heaven that these efforts had been more successful, or that even now, after so much distress has been suffered, I could discover any beam of hope to cheer my suffering friends and constituents in the present gloom and depression. But, sir, there is none. The petitions of the people are unheeded. They will receive no relief, until they take into their own hands the administration of their own affairs. I can do no more, then, than to present to the House such demonstrations of public opinion as are confided to me, and to solicit and entreat the attention of Congress to the grievances under which the people now labor, and to beg, in their name, for relief, and to hold myself in readiness to co-operate in any measure, come from what quarter it may, which furnishes a reasonable ground of belief that it will mitigate the severity of the pressure which now weighs down the interest, the happiness, and the hopes of the people.

I move that the resolutions and memorial be laid upon the table and printed, with the names annexed.

Mr. SMITH wanted to know if it would be in order to move a reference of the memorial with instructions?

The CHAIR decided in the negative, and the memorial was laid on the table.

BANK UNITED STATES INVESTIGATION.

Mr. MILLER moved for the printing of 30,000 extra copies of the reports of the Bank Committee.

Mr. HIESTER proposed 15,000.

Mr. KING moved 10,000.

Mr. GILLET 25,000.

Mr. BRIGGS moved to amend the motion so as to require the two reports to be attached to each other.

Mr. MILLER had no objection; but mainly desired that the correspondence between the committee and the officers of the bank be attached to both.

The motion was, after some conversation, laid on the table till to-morrow.

FRANKLIN COUNTY (MASS.) MEMORIAL.

Mr. GRENNELL said he rose to bring to the attention of the House, a memorial from 1,200 legal voters of the county of Franklin, in Massachusetts, in reference to the removal of the public moneys of the United States from the places established for them by law; the currency of the country and a national bank. They complain (said Mr. G.) of the acts of the Executive in all this matter, as producing deep, extensive, and enduring distress in the country; but they are chiefly concerned that these acts are in violation of the public faith, of the law, and constitution; and they pray for the interposition of Congress, to arrest the public evils and redress their grievances.

The rules of this House may allow me to say a few words of these memorialists, and of their interests and occupations. I can do this, sir, with confidence, for I am native with them, was brought up among them, and shall ever be ambitious to partake of their spirit and character.

Their section of country is in that part of Massachusetts well known as the Valley of the Connecticut, and the hills that rise from it on either side; a fairer and more fertile region is nowhere found in New England. Agriculture is their principal occupation; and these memorialists, with their neighbors of the counties of Worcester and Hampshire, forming my constituency, compose a body of Whig yeomanry, as intelligent, industrious, virtuous, and patriotic, as exists in any part of this Union. In aid of their leading employment, manufactures and the mechanic arts are carried on with enterprise and success. And thus is created a community of interests, imparting mutual strength and support, and producing an unusual share of social and individual content and prosperity.

Such a community, from their habits and pursuits, as well as by their geographical position, must be, ordinarily, free from the pressure of the national Government. Its action has heretofore, indirectly, though favorably, affected the products of their labor, but never has its hand been severely felt. But, in the present novel and appalling state of things, and in view of their adverse condition, the memorialists feel it to be their duty, as it is their constitutional right, to address the Legislature of the Union, not in violence, but in concern; not as the special friends or opponents of the President, but in the plain character of American citizens, for whom, in common with the people of these States, Congress is bound to legislate impartially, justly, and paternally.

Sir, the people who address you state their case with plainness and decorum. They have an intelligent view of their rights, and of the duties of the public servants; for they are an educated, reading, reasoning people: less influenced by their passions than by their understandings, and having no motive to misrepresent their condition. Free from the corrupting influence of office and patronage, their simple desire at the hands of this Government is, that our republican constitution and laws may be so administered as not to endanger our free institutions, nor disturb the lawful pursuits of their industry, nor the moral order of their society. And are not men of the character I have described, worthy of a respectful hearing before this House?

The memorial states, and I am witness of its truth, that, a few months ago, they were in the enjoyment of unparalleled prosperity. A bountiful Providence had crowned the varied labors of the past year with ample rewards; and that whole community exhibited one general scene of life, industry, and joy. But a paragraph from their own paper will give a better view of their condition than any language I can use: "It is true we were not rapidly grow-

ing rich; the nature of our business does not admit of this; but we were saving something from our labor beyond the support of ourselves and our families. Old debts, which had accumulated in less prosperous times, were in process of payment. Creditors felt secure and lenient. They who, by their industry, were free from debt, were adding to the stock of their farms, extending and improving their cultivation, procuring for themselves and their families an increase of comforts, and for their children better means of education." And they hoped that, in coming time, their industry, economy, and enterprise, unfailing sources of wealth and comfort, would be left to produce upon themselves and their families their common results. Yes, sir, even after the fatal blow was struck, which was to send a pang through every nerve and fibre of this busy laboring community, they still had hopes that, removed as they were from the operation of causes which often bring distress upon manufacturing and trading communities, the failures with which distant cities and great marts of trade were visited, might not occur among a people of their habits and occupations.

I have spoken of the condition of these memorialists prior to the operation of the Executive measures. It was a common one in all the Eastern States. And none could have anticipated a total reverse of the scene in six short months—a sudden shock of adversity, withering and blasting every earthly prospect—unless from the hand of some formidable public enemy in open war, or from the hand of Heaven in some war of the elements. But such reverse has come; not by war, nor famine, nor convulsion of nature; but the hand of the Executive Government has been laid upon the country, as if in wrath, and universal fearfulness and distress have been the result.

Again, my constituents shall speak for themselves: "But the same causes which have brought ruin and distress upon other communities are at work among us. The blight has fallen upon our fields even when they were ripe for the harvest. The prices of all our agricultural products have sunk down. Our fat cattle, our wool, and our grain, the three great staples of this county, are upon our hands, and there is no possibility of getting rid of them, except by a great sacrifice. We know not how we can better convey an adequate idea of our present condition, than by saying that the cattle which many of us purchased last autumn for the stall, and in feeding which nearly the whole produce of our farms has been expended, are not worth to us now more than we paid for them. Thus have some of us lost the products and labor of a whole year. All classes of laborers share with the farmer in his depression. Mechanics and manufacturers have, in many instances, been thrown out of employment, and exposed to suffering and want, or driven to seek unwonted, and far less profitable work, if haply they can find it."

In this and other parts of their memorial, these citizens give you a brief and simple account of what they feel and what they fear.

Sir, when the farmer tells you that his fat cattle, his grain and wool, lie upon his hands, ruinously depressed in price, and without the prospect of a market, is he not entitled to the sympathy and regard of Government? And when the laborer respectfully tells that Government that, in the sweat of his brow, he can scarcely earn his bread; that his health and muscles, his only capital, are greatly cheapened or wholly unemployed, who does not look around for the cause and the remedy for the dread calamity? But when, in addition to these afflictions, as these citizens suggest, they fear to lose the means of giving their children a useful education, it would seem that the measure of their anxieties was full. For, sir, in that land of common schools, and of moral and intellectual culture, this great object stands second only in common estimation to that of bare physical subsistence. It reaches beyond personal and family influence and character, to society, and law, and constitution, and country. Ay, sir, it carries to the ballot-box all its salutary power. And, under all its pressure, is it strange that these citizens feel intensely, and speak plainly to this Legislature, where alone is lodged the power of relief.

But they have not confined their views nor their reasoning to their own pecuniary affairs. Looking abroad upon their fellow-citizens, they, as we all do, witness general suffering, scarcity of money, destruction of credit, depression of prices, and ill-paid labor, all striking at the means by which men live. And they attribute this train of evils, and others which they fear, to the action of the Executive in compelling the removal of the treasure of this nation from its legal depository, and throwing it into some twenty or thirty irresponsible or doubtful State banks; and to the unmeasured hostility of the President against the national institution.

Sir, we have looked in vain for other causes, adequate to the effect. We discover none that could so suddenly and extensively derange currency, that element in which all transactions of business live, and prostrate credit and confidence, the means by which they are carried on. Who now presumes to charge the public distress to the United States Bank? Though we have seen it cast off by the Executive as a fiscal agent of the Government—the relations between them dissolved, and the institution thus turned into a private banking corporation; yet it did not seem to rush upon the community, or the State banks, in vengeance, or to make them feel its power. On the contrary, the bank did not diminish its accommodations to the community, to near the amount of the public moneys withdrawn from it. And yet, the new depositories, the selected banks, could not or would not extend theirs, to the amount thus put into their hands, by several millions of dollars. Thus was the people's money abstracted from their legal treasury, and withheld from their use and accommodation. In all this was seen moderation on the part of the National Bank. Nor can we discover any movement of that institution, tending to oppression or severity. We indeed saw a diminished circulation, for which it was not accountable, but the evils of which it greatly mitigated. And, if it did not preserve the currency from disorder, after the fatal assault; and if it could not sustain general confidence in the commercial community—it is to be remembered that its faculty for good was impaired by the obloquy cast upon it by the President, by his denial of its solvency, and by his forcing it and the State institutions into a relation of mutual jealousy and competition. It could not but be, that all should become cramped in their operations, by the attack of the President upon the credit, character, and existence of the National Bank.

The memorialists perceive, or think they do, in this course of action, cause enough for a derangement in a system so delicate and complicated as the currency of a great country, and for the prostration of general confidence, so essential in all the dealings of men. And in a nation whose interests, endlessly various, are so closely intertwined as in this, none can be so low or remote as not to suffer by a wound inflicted on a vital part of the system. All, from the capitalist to the day-laborer, come in for their share of the common suffering.

And was not this result foreseen by the authors of this financial outrage? But it was as reckless and daring in its conception, as ruinous in its consequences. Well may my constituents entertain the fear that these measures, if persisted in, will work for them the sacrifice of the labors of coming years; and that, amidst ruined credit, fluctuating prices, and unsettled currency, greedy speculators will fatten on the products of the honest farmer and mechanic, often the victims of their dishonest acts.

But these memorialists would feel unfaithful to their

country, to this Government, and to their posterity, if they rested their complaints on pecuniary sufferings alone. No, sir; there are connected with these measures considerations of higher public concernment. When we have seen the Executive, in repeated messages to Congress, denouncing the bank; denying its salutary influence as a regulator of the currency; denying its security as a depository of the revenue and fiscal agent of the Government; and when we have seen him following up these hostile declarations by a bold and hasty removal of the deposites, only a few months after this House had, by a great vote, declared them safe, and but two months before the assembling of the representatives of the people, with the apparent design to resist their action and control of the people's money, by the misuse of his veto power; and thus by art, as well as doctrine, claiming sole and supreme control of the public purse; when, I say, we have witnessed all this, we cannot wonder that these memorialists should feel and express the deepest anxieties for the safety of our free institutions. And when it is seen, too, that, in order to effect his objects, the President has perverted the appointing power, a limited and qualified one under the constitution, there is, is there not, sir? great reason to apprehend the concentraton of ungranted and dangerous power in the hands of one man! But the danger is increased, when it is seen that this grasp of new power is at the expense of the popular branch of the Government. Congress loses what the Executive assumes in control of the public treasure. And the Senate, holding a share of the appointing power, sees itself practically put aside in the process of filling the high offices of Government. Is it not so, sir? Not only has the President asserted his right to keep and control the collected treasure of the nation, but, to make his claim sure, he has carefully kept in the office of Secretary of the Treasury a man of his own sole appointment, and whose only will seems to be to do "his bidding and abide his will." And it is a fact new in the history of our Government, and I hope it will stand out prominent, as a monitory fact, that for more than one year past we have not had a Secretary of the Treasury appointed according to the constitution! Well might the public meeting of my constituents declare that the President was pursuing his destructive objects by means incompatible with the spirit of the constitution.

Sir, it is not my design to go into an argument against the removal of the deposites, that hitherto undefended and indefensible exertion of Executive power, either as to its expediency or constitutionality, but only to present briefly, as I have done, the views of my constituents of this bold and pernicious measure, to speak of their sufferings and apprehensions as produced by it; nor will I go into the great and grave subject of the currency of the country; but will only present their sentiments, as well expressed in one of the resolutions adopted at their convention.

"*Resolved*, That a paper currency, based upon an adequate specie foundation, presents important advantages over an entire specie circulation, both in its power of expansion and contraction, according to the wants of the community; the object of a wise and patriotic Government, therefore, should be, not to destroy such a currency, but to regulate it, devising means for giving the whole system efficiency and safety, developing to the full its advantages, and remedying its acknowledged defects."

On this subject, the memorialists, referring to the reasonings and opinions of our ablest statesmen, during the existence of our present Government, and to past experience through all that period, declare their conviction, and I fully concur with them, that a national bank affords the only corrective of a disordered currency; that experience has abundantly proved its importance to the industry and commerce of the country; its value as a ready and efficient servant of the Government, in the great concerns of its revenue. And we all have seen, how great was the shock to the common sense of men, when all this experience was set at naught, for an untried, unexpected, and preposterous experiment, for a "hard-money currency!" Respecting the constitutionality of a national bank, if my constituents could ever have doubted, their doubts would have been quieted by a review of the history of that institution. They would have perceived—

1st. That many of the framers of the constitution were members of the Congress that chartered the old Bank of the United States, and gave the measure their decided support.

2d. That Washington signed the charter of that bank.

3d. That President Madison signed the charter of the present bank.

4th. The Supreme Court have decided in favor of the constitutionality of a national bank.

5th. The people have been content with its existence nearly forty years.

6th. The last Congress, by large majorities in both branches, voted a recharter of the present bank.

Lastly, President Jackson has expressed himself in favor of such a bank as *he* could propose. He has pronounced such an institution both useful and convenient to the people.

Under these convictions, the memorialists see no other means of extending relief and restoring the constitution, than restoring the deposites to their lawful place and keeping in the Bank of the United States, and so fulfilling the solemn public contract with that institution; a contract which none will pretend the bank has ever violated. They know no other mode of creating and preserving a sound and equal currency, than by the agency of a national bank—an institution for the people, the whole people of this great country. For these objects, separate and distinct in their character, my constituents memorialize Congress. They come to this House, which emanates directly from the people, and to them is directly responsible. They believe their public agents here can enter into their views, realize their condition, and sympathize in their sufferings. And least of all do they fear that their representatives can retort upon them the reply which the President is said to have given to the complaints of the people, that those who do business on credit are undeserving regard and protection. Credit, sir, personal, pecuniary credit, though not implying exactly so much as moral character, is nevertheless too nearly related to it among a plain, agricultural, and mechanical community to be disregarded or reproached; for it rests more on moral and economical habits than upon any pecuniary pledges, and is at once an incentive to, and reward of, industry and integrity.

Sir, I know not that these citizens ever before approached Congress with any public grievance. They may rejoice to know that, on this occasion, their voice is here mingled with that of hundreds of thousands, called forth by the same cause, and directed to the same end. And I devoutly wish I could tell them their prayer will be answered—that Congress will interpose all its power and authority for relief and quiet to the country, the redemption of the national faith, the restoration of the constitution and the laws, and the restraint of Executive assumptions. But, sir, indulging no such hopes myself, I will not encourage them in my constituents. Nay, it is my duty here, as their sentinel and servant, to declare that there is no hope of change in the measures of the administration; that the President has sternly declared there should be no change in his determined course of action; that, in this House, certain great questions of public right and policy, of vital importance to the people, have been negatived and put down, while others, of hardly less mo-

ment, have been cautiously avoided in its action. I regret I must tell them that this representative body has shunned a vote on the sufficiency of the Secretary's reasons for the removal of the public moneys from the lawful treasury of the nation; and that, by a vote against their restoration, it has sanctioned a breach of faith with the bank, which, if it had occurred in a private transaction between man and man, would have covered its author with shame and dishonor—a violation of faith, which, occurring in the intercourse between two independent nations, would be regarded as a just cause of war!

Sir, the people of this country look upon the measures of the Executive, and of this House, with astonishment and dismay—I will not say with despondency. For, in the review of public affairs, they find relief to the gloomy prospect, in the character and action of another branch of the Government—an oasis in a desert waste. And I should do injustice to my own feelings, to the occasion, and to the sense of the country, could I forget to give my humble testimony to the exalted and dignified character of the American Senate. That body has nobly, greatly exerted its powers, to illustrate the true principles of our republican system, to vindicate the constitution and laws, and to check Executive usurpations. Its discussions, decisions, and measures, of the present session, will be held in grateful, admiring remembrance, while this Government shall stand! But it cannot be forgotten, that this House of the people, where they have poured out their griefs and complaints, has heard them with sturdy indifference, and looked upon the gathering ruin without one effort to avert it.

No, sir, these memorialists have nothing to hope here. They understand the ultimate remedy for public evils; they will bear them with patience, till they shall be redressed by the voice and votes of a free and intelligent people.

The following message, received from the President of the United States on Thursday last, was read:

To the Senate and House of Representatives:

I transmit a letter from the Marquis de Rochambeau to the minister of the United States in France, (together with a translation of the same,) referring to the petition of certain descendants of the Count de Rochambeau, which was communicated to the House of Representatives with my message of the 22d February, 1833. Extracts from the despatches of Mr. Livingston to the Secretary of State, respecting the same subject, are also sent.

I likewise transmit, for the consideration of the House, a petition from the heirs of the Baron de Kalb, (accompanied by a note from General Lafayette,) praying remuneration for services rendered by the Baron to the United States during the war of the Revolution.

ANDREW JACKSON.

Washington, *May* 19, 1834.

The message was referred to the Committee on Foreign Relations.

Various bills on the Speaker's table were taken up and disposed of, and then

The House adjourned.

Tuesday, May 27.

NAVY PAY.

Mr. WATMOUGH said, as he had given notice of an intention, with the permission of the House, to call up the bill to regulate the pay in the naval service of the United States, he would ask that it should be taken up and considered this day. If not, as the subject was one of paramount importance, he hoped that a specific day would be fixed for having it taken up.

Objections having been made—

Mr. W. said he would, for the present, postpone his intention of calling up the bill.

BANK REPORTS.

Mr. MILLER asked the unanimous consent of the House to take up the motion submitted by him for the printing of 30,000 extra copies of the reports respectively presented by the majority and minority of the committee appointed to investigate the affairs of the Bank of the United States.

Objections having been made—

Mr. MILLER moved a suspension of the rule; which motion prevailed.

And the resolution having been taken up—

Mr. BRIGGS moved, as an amendment, that the two reports be printed, attached to each other, and with an appendix to the whole.

Mr. MILLER declined to accept this as a modification of his motion.

Mr. BRIGGS said his object in submitting the amendment was to save considerable expense, which might be avoided by having only one copy of the documents printed, which, by having the two reports attached, would answer every purpose that could be desired. He was also actuated, in making this proposition, by the consideration that, when the printing of any extra number of documents was ordered by the House, the only justifiable reason they had for going to the expense of doing it, was that, thereby, they were disseminating full information to their constituents upon important public matters, by which they would be entitled to judge of the propriety of such measures as should be under discussion in Congress. This, then, being the motive, when two reports of totally opposite views were presented by the members of an important committee appointed by the House, he would contend that it was the bounden duty of the House to print both, as well as the right of the people of the United States to have both laid before them, that they might have an opportunity of comparing the views and conclusions to which either the majority or the minority of the committee had come, with those of the other. The people would be placed in a condition to judge for themselves, which they could not be, perhaps, if the reports were sent separately. He did not urge this with any peculiar reference to this question, but rather as regarding it important to be adhered to as a general principle, which he hoped the House would now settle, that when, hereafter, they should vote the printing of any reports in which conflicting and adverse views were presented, the whole matters should go out to the public together, for the reason he had already stated. Mr. B. said he had been informed that this had been the practice of the House heretofore, and one that was only recently departed from. It was one to which the House should return, and, believing that a decision to this effect was now desirable, being a question altogether addressing itself to the candor, intelligence, and integrity of every honorable member, he would now leave it to them to dispose of, desiring only to have the question upon his amendment taken by yeas and nays.

Mr. LANE, of Indiana, said, while he agreed with the honorable gentleman from Massachusetts, [Mr. Briggs,] that the object of printing extra numbers of the reports was to disseminate correct information among the people, to make them acquainted with the action of this House, and to enlighten the public mind, he should vote against the amendment proposed, to have the report of the majority, and the appendix, and the report of the minority, printed and attached, in order that they shall be placed in the same hands at the same time, as he did not believe that mode best calculated to produce that result; that he desired them separate; they could then be circulated to the best possible advantage. The majority report and

the appendix, by which it is sustained, can be forwarded to one individual, the minority report to his neighbor. Each would read, and each would be desirous to see and read the other; and the ambition of each would be increased to have the one he had read seen by his neighbor, in direct proportion to the excitement of his political feeling, or the desire he might feel to arrive at truth, and have others to possess the same advantage. Whereas to place both in the hands of the same person, he would have it in his power to suppress the one or the other, at his pleasure; and, therefore, to print and distribute them separate, to his mind, had the advantage as two to one: and this is the more desirable, when we take into consideration the fact, that, to publish the highest number proposed, (30,000,) will furnish to each member but 127 copies, and those to be distributed among 50,000 persons.

Mr. L. said he had another objection to uniting the reports. To which would the appendix be affixed—the majority or the minority—to the report of the committee of the House, or to the bank report? From what we have seen, the evidence would be affixed to the bank report, and withheld from the other, by the printer of this House. For, said Mr. L., on examining those printed and laid upon our table, that course has been adopted; for what reason he knew not. He would therefore vote against the motion to amend.

Mr. ELLSWORTH said that the suggestions of the honorable member from Massachusetts [Mr. BRIGGS] were such as would commend themselves to every gentleman in the House; for he could hardly conceive that one member would be found who would not, from the considerations presented to them, be anxious to send out the views of both the committees on this important subject. For himself, he would state that he was anxious to send to his constituents the views contained in the report of the majority of the committee as well as those contained in that of the minority, being desirous that the people of the United States should have the subject presented to them in every shape that it assumed. He agreed, therefore, in supporting the amendment of the honorable member from Massachusetts, conceiving that the reports ought to go out together, and not supposing that there could be any dependance placed, or that it should be left to depend on the contingency stated by the honorable member from Indiana, [Mr. LANE,] that, if the reports were sent out separate, there would be an interchange of them by the people to whom they should be sent. The honorable gentleman is peculiarly happy in having such constituents, as that when he sends a bank report to a bank man, and an anti-bank report to an anti-bank man, he can feel assured they will be mutually interchanged. The reverse would be more likely to ensure the interchange. If the reports are printed together, these neighbors will be saved the trouble: and we shall know that, while we are appropriating the people's money to give them correct information, they will see both sides of the question, and judge for themselves. But his principal object in rising was to assure that honorable member that he was entirely mistaken in supposing that, in the printing of the majority report, there was a just ground of complaint against the printers of the House. He had made some inquiries into this subject, and he believed that it would be ascertained they were not to blame. For, after the reports were ordered to be printed, on Thursday last, these gentlemen had made every effort to procure the report of the majority and other papers; applying for that purpose to the Clerk of the House, as the proper organ, in whose custody they ought to have been, when presented by the committee, until sent by him, in obedience to the order of the House, to them to be printed. But the report was not to be found with him, the Clerk declaring to the printers that he had not set his eyes or hands upon it since it was presented to the House; he could not, in fact, tell where it was, or what had become of it.

The inquiries were renewed by the printers on the following day, (Friday,) but with the same result, and the first discovery that they had of where the report was likely to be found, was upon seeing an insertion of it in the columns of the official paper, the Globe. How it came there, or why it should have been sent there, instead of to those whose duty it was to have such matters for publication, it was not important for him to inquire. This was on Saturday. The printers, then, were not to blame for not printing documents which they certainly had not time to publish. It did not even appear that the Globe, to whom they must have been sent two days previously, had been able to print these documents with the report. They (the public printers) had, however, printed the documents with the minority report; not with any design to act partially in the matter, but simply because they had been sent with the report, in their proper place, in the accustomed manner, and because they had been so directed to print them. Would gentlemen, then, who were casting imputations, now say that they were to blame? If they did, how did it happen that the appendix they deem so valuable was not published in the Globe? He would not impute any design in withholding it; it was, however, somewhat strange, that those having the documents had not published them, and he feared did not intend to do so.

Mr. E. went on to say that he was so desirous that men of all parties should examine into this question for themselves, that he looked with much anxiety to see whether the report of the minority, or the documents now the subject of complaint, were to make their appearance in that paper (the Globe) which had already inserted that of the majority. In this, however, he said his expectations had been disappointed; and, from what was stated in an editorial article in that paper, he presumed they would not be published. Mr. Blair, he much feared, was not governed by the principles of the affectionate politicians of Indiana: he omits to publish even the whole of the report of the majority; for he withholds the correspondence between the committee of the House and the committee of the bank, which is the whole matter of fact in the case; he has not dared, hitherto, to present it to the people, and never—no, never—will he suffer the report of the minority to appear in his paper. He, or some other one, deserves notice, for what has been done even with that part of the report of the majority which he has published.

Were such views, and such conduct, and such an example, however, now to be followed up? He would say, no. Rather let there be one report, one document made of it, containing all that was presented on both sides of the question; for he would ever raise his voice in detestation of *ex parte* dissemination of public documents; and it was with regret he must state that he heard such a course advocated. Under the circumstances, and the intelligence pervading this community, there could not, he maintained, be any thing to be dreaded by those who had a just cause, from sending out all the lights that could be sent to the public.

Mr. BARRINGER rose to state, as the honorable member from Indiana had thought proper to cast imputations upon the conduct of men whose character for strict impartiality, during the stormiest times of party conflict, was irreproachable, that he was casually present when these gentlemen had received, in answer to a note addressed by them to one of the members of the bank committee on this very subject, a note, in which they were expressly given to understand by that honorable member, that it was not the intention of the committee to publish the appendix in the shape in which it was sent to them. The copy, in fact, was set up by them, and

was then in type, but they were induced to make the inquiry of the honorable member from Pennsylvania, who was on the committee, in consequence of some doubt arising as to whether the printing of the appendix was comprised in the order of the House.

Mr. MUHLENBERG admitted that he had received a letter from Gales & Seaton, but he said that his reply had reference only to the printing of the journal of the proceedings of the committee, which it was not deemed by the committee expedient to print—not to the appendix.

Mr. BARRINGER would not contend this point, as perhaps the fact was as stated by the gentleman. He was glad to be corrected if in error in any particular; but the main fact had occurred as he had stated.

Mr. THOMAS had endeavored, he said, to get the floor before this debate was indulged in, believing that he could satisfactorily explain this matter. As to the question whether the reports should be printed separately or united, he was perfectly indifferent how the House decided it. He should feel very little confidence in the conclusions of the majority of the committee, if he thought that the report of the minority was of a character which could, in the slightest degree, shake or impair those conclusions. Not one fact stated by the majority was contradicted by the report of the minority. As to the inferences from these facts, there might be a difference of opinion. He apprehended no difficulty from joining the two reports. It appeared to be supposed that, by uniting the documents, some little expense might be avoided. But it was not so. The appendix of the majority report would not suit that of the minority. It was differently arranged, and contained different selections from that prepared by the minority. Whether the reports were published together or separately, no expense would be saved, even if that should be considered an important object. Again, he was indifferent whether the reports were united or not; because, if any member should wish to send one without the other to a constituent, he would greatly lack in ingenuity if he could not cut the piece of twine which unites them, and then send them separately. Of the propriety of separating or uniting them, each member must judge for himself, and consult the wishes of his constituents. Another matter was connected with this, which he was sorry to see brought into the debate by one of the gentlemen [Mr. Ellsworth] who was his colleague on the committee.

We are told that the public printer could not obtain access to the report of the majority. He had been applied to, as a member of the committee, for a copy of the report for publication in the Globe, in order that it might be published immediately. Being himself inexperienced in regard to the usage in such cases, he consulted others, who told him that it was proper and usual to give a copy for publication. The documents, he knew, must soon reach the public eye, and it did not appear to him that any inconvenience could arise from granting the request. With the consent of the other four members of the committee, who had assented to the majority report, he applied to Mr. Burch, one of the clerks of this House, and requested him to have a copy made out, under his direction, for the Globe, but asked him to have it done by one of the clerks in his office, and not to permit the original to be taken from under his control. Some of his colleagues, during his absence, had, it was said, informed the printers that the appendix was not considered a part of the report. There was some mistake in this; with whom it originated he knew not. Most certainly his colleague, [Mr. Mann,] who had, during Mr. T.'s absence, undertaken to superintend the publication of the report, had stated to the foreman in the office of the National Intelligencer, that the appendix was to be attached to the report. On his return to Washington, on Monday, Mr. T. was surprised to find the report of the majority published without an appendix, while the appendix designed for the minority report was attached to it. He went to the office of the National Intelligencer for an explanation. He there learned that the appendix to the majority report had been omitted by mistake. It had now been properly arranged, and the House would, no doubt, have possession of it to-morrow. Mr. T. said he did not understand the motive for the introduction of this small matter into this debate by the gentleman from Connecticut. It could not certainly affect the merits of the grave questions which the House would soon be called to deliberate on. When they arose it would be time enough to enter on this discussion.

Mr. E. EVERETT desired to make some explanation in defence of individuals, who, being absent, could not defend themselves from the charge of negligence in their duty as printers to the House.

[Mr. Thomas rose to disclaim having had any intention of imputing a charge of neglect to the printers; at least, any charge that would leave them subject to reprehension by the House. Such was farthest from his intention.]

Mr. Everett said he did not suppose there was any intention on the part of the honorable member from Maryland to make a serious charge against the printers; but he would maintain that the printers had not, in the performance of the duties assigned them, been either guilty of negligence or inattention; neither had they committed any mistake in this matter. The committee had not deemed it important to have the journal of the committee printed. It had, however, been accidentally sent to the printing office with the report and the appendix, and as it had come to his knowledge, whilst at the printing office on business connected with his public duties, that they were setting it up for publication, with the other papers, Mr. E. had stated to them, that the printing of it had not been ordered by the House, according to the impression he had on the subject. It was at his suggestion, that the information referred to by the member from North Carolina [Mr. Barringer] was sought for by them, from the member from Pennsylvania, [Mr. Muhlenberg.] The impression of that honorable member, it appeared on inquiry, was in accordance with his own. So the matter then stood; and the printers, being anxious to do their duty, suspended the printing of the appendix until they could have this doubt decided in the most authentic form.

By a subsequent order, as he (Mr. E.) supposed, they were directed to have the journal printed; in consequence of which it was, in fact, now on the tables of the House. It then followed that, under the circumstances, the printers had, so far from meriting censure, acted advisedly and correctly. The honorable member, however, had remarked that the appendix printed with the report of the minority was not such as would suit the purposes of the majority. That might be, Mr. E. said. He could not suppose that, in so stating the case, the honorable member intended to convey any thing that was exceptionable. But he would state that the appendix to the minority report was considered an all-important part of the history of the proceedings of the committee. It was not, as it had been termed, a mere abstract from the journals; it consisted of a series of communications held by the committee with the bank, and their answers, arranged in chronological order, and printed, by the printers to the House, from manuscript copies sent by himself to them for that purpose. It was not printed, as stated, from manuscript severed from other documents, but was what he had himself caused to be prepared especially for the appendix. Adverting to the question whether the reports of the two committees should be printed together or separate, Mr. E. said he had not supposed that any amendment was requisite to procure the former course to be taken. Always conceiving that the views presented by the minority formed

a part of the report itself, he presumed that, by the rules of the House, they were required to be printed in one book or pamphlet. This was, he knew, done on two former occasions; the one when he had the honor to be appointed on the Committee of Retrenchment, in 1828, and the other in the case of the apportionment bill.

In both cases, Mr. E. said, he had been in the minority, and had, with his colleagues, presented their views, which, when the reports were ordered to be printed, were comprised in, and formed a part of the reports. It was true that, in 1828, there was some opposition to this, it being then desired to have the minority report excluded from connexion with the report of the majority on the Committee on Retrenchment. A question having arisen upon the usage in such cases, the Clerk of the House was appealed to; but he said that such had not been the practice of the House, and he refused to order them to be printed detached from each other, unless he was specially directed so to do by the presiding officer of the House. That officer, on being applied to for such an order, he had been told, actually declined to interfere. The three reports from the committee, in 1832, on the subject of the bank, were printed in one pamphlet, as Report No. 460, with a continuous paging throughout.

He did not himself care which way this question should be disposed of; for, however it was determined, from him his constituents should hear both sides of it. With this view, he would desire to have them printed together, not merely for his own convenience in despatching them, but also for the benefit of those who, he doubted not, generally desired to have both sides, in order that they might form just conclusions for themselves.

Mr. MILLER obtained the floor, but gave way at the instance of

Mr. THOMAS, who remarked, that it was erroneously supposed that he intended to reflect upon the printer of the House. He had said that no inconvenience had resulted from his having given a copy of the original report for publication, and no error had been committed by the printer of the House in consequence of that circumstance. The public printer had a copy both of the appendix and the journal, but he seemed to be at a loss to conceive why the appendix should be printed, as it consisted of extracts from the journal. This error of the printer had not, as the gentleman from Connecticut supposed, grown out of the fact that a copy of the report had been furnished to the Globe.

Mr. MILLER, a second time, obtained the floor, and again gave way to

Mr. MANN, of New York, who said that an explanation was due from him, having had the charge of preparing the documents composing the appendix for the press. If, then any person was to be blamed, he felt that he was that person. He apprehended that the error which gentlemen seemed to be possessed with, was the consequence of two editorial articles in the Intelligencer, which conveyed some reflections on the committee. These (Mr. M. said) he had noticed when they appeared in that paper, but he had treated them as the pestiferous idle wind which he regarded not, knowing that the censure implied by them, as it applied to him as a member of the committee, was altogether unmerited. It had been said that the report was withheld from the public printer. A short statement would explain his agency in the matter. When the report was presented to the House it was in a rough state, and it was necessary to have a correct copy made for the purpose of printing from: he obtained it for that purpose. The day after it was presented, (Friday,) he had been laboriously engaged in having this done, and having the documents arranged, at the request of the chairman of the committee. When that was completed, the report, documents, and journal, were by his own hands carried to the office of the public printer on Friday evening. It was late. No person was there. The following morning (Saturday) he went there again, and handed them to the principal person who happened to be there. And yet, said he, will the public printer tell this House, and this nation, that he had not the documents in time to be able to print them and lay them on our tables? Sir, they were thus in his possession, brought to his office by my own hands. The public printer, he believed, knew where the report was all the time—that it was in his (Mr. M.'s) possession, for he had himself been aiding in getting it ready for the press, and had corrected the proofs as they came from the Globe; after which, the papers were brought, as already stated, to the Intelligencer office. Whatever wrong, then, had been committed, he must ask the member from Connecticut to wreak his displeasure upon him. If there was to be any censure bestowed for the share he had in all this, that censure he was bound and was ready to assume. He cared little about the question whether the reports should be printed together or not.

Mr. ELLSWORTH said he would assure the honorable member from New York that he was mistaken in supposing that he meant to cast any censure upon his conduct. He was only happy to hear so many explanations on this subject. He certainly had felt some interest, that a fair view of all the matters connected with the investigation by the committee, should be presented at as early a date, and in as correct a form as possible, to the people. Having known that the order for printing these reports was made on Thursday morning—

[Mr. MANN.—Evening.]

Mr. E.—Well, Thurday afternoon, then: he went to the office of the National Intelligencer that same evening, when he was informed that the report of the committee had not, as it ought to have been, sent there. The next day he had gone again, and there was still no account of them. Mr. E. could state, that the printers took considerable pains to ascertain where the report of the majority and documents were. Yet, these persons were to be blamed, because they did not print the documents before they received them! Upon the member's own statement, was this fair towards individuals who had always enjoyed, and deservedly, the public confidence? The member admits that *he* had the papers in his possession, and brought them only to the office at so late an hour on Friday evening, that there was no person to whom they could be given; and that, finally, the printers did not receive them until Saturday morning. Who, then, was the cause of the delay attributed so unjustly to these individuals? Was it not clearly apparent to be a delay caused at the gentleman's own instance? There was a delay from Thursday until Saturday. At what time, he could not help asking, was the report carried to the office of the Globe? According to the statement, the editor of that paper must have had it at least on Friday. Although not disposed to lecture on the subject, he must say that all this had the appearance of having been done in order to give that editor an opportunity of printing one report without the other, and without the correspondence, which formed an essential part of it. However, if the explanation of the gentleman was satisfactory to the House or the nation, so be it.

Mr. MILLER said that, if the gentlemen had all made their explanations, he would submit a few remarks, although he regretted to protract a debate at this important period of the session. As related to the mistake that had occurred, in regard to the printing of the appendix or correspondence annexed to the report of the majority of the committee, he did not believe that much censure ought to attach to any one. He understood that some mistake had occurred, by which the journal of the committee had been blended unintentionally with the correspondence between the committee of this House and the

representatives of the bank--that it was subsequently discovered, when the types were partly set, and the correction of this error had caused the delay. Such mistakes may occur without any blame being justly attached to any person. With regard to the question immediately before the House, that of ordering both documents to be printed in one pamphlet, he viewed it as of very little importance. For himself, if they were printed separately, he would send them both together to such of his constituents as the number printed would enable him to supply. He was not afraid to trust them with both sides of the question. He presumed other gentlemen would pursue the same course.

The present motion appeared to have no other object than that of compelling members to send them together. He thought this matter might be trusted to the discretion of gentlemen themselves; and, if members were disposed to separate them, they could do so notwithstanding they were bound together by a small cord. In point of fact, they were separate documents, and had separate appendixes. This he knew when he made the motion, and that had operated upon him in submitting the motion in the form he had. He thought, if the House printed an equal number of each report, it ought to be sufficient to repel the charge of a disposition to print and circulate partial information at the expense of the nation. According to strict parliamentary proceeding, the views of the minority were not considered a report, and leave would have to be obtained to present them to the House. A different practice, however, had prevailed in the House, and he was not disposed to disturb it. It was, perhaps, one that was founded in good sense. But as the reports were separate and distinct documents, he could see no obligation on the part of the House to unite them. The decision that the House might make on the question was to him unimportant. He would, therefore, not trespass longer on the patience of the House.

Mr. BURGES said, by the motion of the gentleman from Pennsylvania, [Mr. MILLER,] we are required to print 30,000 extra copies of the report of the bank committee; by the amendment offered by the gentleman from Massachusetts, [Mr. BRIGGS,] it is proposed to attach the two parts, the majority and minority report, together, and send the whole out to the people at the same time.

Sir, I always understood that it had been the uniform usage of the House to send forth reports of this description when ordered to be printed, for the information of the public, together, in the manner proposed by this amendment. I desire honorable members particularly to look back to that conduct which had been pursued in regard to this very institution, when, in place of a minority, there was a majority of the House in its favor. Were not the two reports presented by the committee, appointed to investigate its affairs, published together? They assuredly were; for no man then even dreamed of committing so gross an outrage upon the intelligence and honesty of the people; no man dared then to encounter the reproaches of the nation, if an outrage so flagrant had been attempted. Was not the consequence of sending the reports separate, to present to the public a partial view, a one-side view, on this question? Was it this which gentlemen desired? If so, let it be avowed. It was avowed; for what did they not hear? Had it not been suggested in this debate, even by the chairman of the committee [Mr. THOMAS] himself, that it was almost idle to debate the subject, when it was in the power of every member to settle the question of sending them out separately or together, by cutting the thread that attached them; and thus, for party purposes, to separate them? Kind, honest, just suggestion! Sir, I deny that any honorable member, I mean any member, dare resort to such an expedient. None ought; none, I trust, would be guilty of such a deed. No man would be found so base. I am full of the hope that members, on the contrary, will not only be willing, nay, that for the purpose of truly possessing the public of the contents of these important documents, that they would be zealous in exertions to keep them together, to despatch them together, uninfluenced by low considerations of party. With this view, I hope that the reports and the appendix will be so printed, so attached together, that it would be impossible to separate them. That thus, if there were men so base, which I do not believe there would be in this honorable House, as to think of or to attend to the honorable suggestion of the chairman of the committee, as to send out such a thing as a garbled statement, they would be in this way prevented from executing so foul a purpose. Let them take the only means to prevent it, and send out the whole truth on a matter so important, so perilous to the nation.

What, I inquire of every honorable man, would be the condition in which the country would be placed, if we withhold the truth from the people; from that people so deeply so entirely interested in this the greatest question which they ever had before them? Would it be fair, would it be honest, to this anxious community? No, no. Dare we attempt to palm off on the nation a one-sided statement, as a full representation of what passed between the directors of the bank and the committee of this House? Again, and again, I would refer them back to the former practice of the House when the bank had a majority there, and call on them to follow it.

What had they not seen done, even in the getting up of this report already? Why, an open attempt to forestall public opinion; a most unworthy attempt, with the aid of a member of Congress, of the committee to put upon the public a garbled statement. Possessing himself, for that purpose, of a report, which was the property of the House when once presented, and transferring it to a party paper, for party purposes, and preventing its being handed over, as was the usual custom, to the printers appointed to do their business.

I put it to the House whether, now knowing this, they would sanction such conduct? If it were denied, he asserted that it had been done. Ay, a copy of one report only, and without any of the correspondence, had been, with the aid of a member of the committee, sent out for the unwarrantable purpose of forestalling, by such foul means, the public opinion. This is all correct, no doubt, in the estimation of some men entirely devoted to party, if there be such men. It may highly become a party so to take, so to use, and so to detain public papers. The Clerk's table, once sacred, is now no security. No matter. The papers are safe; safe in the hands of an honorable member, in a secret room, and under the hand of a confidential clerk to copy such parts as the honorable gentleman shall mark as useful to be published, or proper to leave uncopied, and unprinted, and unseen by the people.

These, sir, are the methods pursued under the advisement of the chairman of this high and important committee, to send out a part, a garbled part, of a report; and so to place it under the public eye, that the strongest impression, no matter whether correct or not, may be made against the bank.

This question, I maintain, is one that rises above every consideration of party. It is a question interesting, deeply interesting, to public liberty itself. Here has been a foul attempt to forestall, as had been done in another instance, (the case of the presidential protest,) public opinion; and, following such high example, I doubt not another 40,000 copies will be circulated. Let me tell that honorable member this partial mode of dealing with the reports of the House will not prosper. It is not right. It is not honest. It cannot succeed with an intelligent community.

Nothing else will satisfy this country, but an honest, fair-dealing distribution of such papers as are intended

by the House for their full information, whilst they believe that the arm of force is so stretched out over the liberty of the country that no man can be deemed safe, either in his person or his papers, from the outrageous, revolting, and unconstitutional exactions and assumptions of those in high office, now assuming irresponsible and unlimited power.

After a few remarks from Mr. CHILTON--

Mr. MILLER said the discussion on what was in itself so unimportant, was becoming so interminable that, with a view to obviate all further objections, he would accept of the amendment proposed by the member from Massachusetts as a modification of his own.

The question thereon being on the motion of Mr. MILLER as modified—

Mr. PINCKNEY was in favor of printing the largest number of both reports. He was desirous that the minority report should be extensively circulated, as, in his opinion, it contained, as far as it went, sound and correct constitutional views.

Mr. MASON inquired whether it was in order to discuss the contents of either of the reports upon the motion before the House?

The CHAIR replied, upon a question of printing a document, the subject of it was open to discussion to a certain extent.

Mr. PINCKNEY proceeded: He wished to assign his reasons for voting to print the largest number. They were, perhaps, not the same reasons which would influence other members; and if he was not allowed to state them, such as they were, it would be to deny to him the right of speaking upon the question at all. The only objection he had against the report of the minority was, that it did not go far enough in its constitutional views. But he particularly wished the largest proposed number of the report of the majority published, that the people might see and understand the monstrous powers arrogated for this House--arrogations which, if sustained, deeply involve the liberties of the people. If they had a particle of regard for their liberties left, it might be expected that they would resent and repel this attempt to subjugate them to unwritten and undefined power. Mr. P. said he was anxious that the report of the minority of the committee might be extensively circulated in the State of Pennsylvania. It was that State, principally, which had placed General Jackson in the presidential chair. He wished that State to see this proposition to prostrate her sovereignty, and drag fourteen of her most respectable citizens before the bar of this House. Her citizens would be able, by this attempt to degrade that State, to understand the tyranny of those who now hold the reins of power. The people of that State already know that every class is involved in unprecedented distress by the measures of the Executive. They had seen the attempt made by the President to disgrace the Senate.

[The SPEAKER called the gentleman to order.]

Mr. P. submitted to the Chair. He said he was assigning the reasons why he should vote for printing the largest number of this document. The citizens of Pennsylvania might not know that it was now proposed to give this House power over the personal liberty of her citizens. They well knew their property was at the disposal of Congress--they might not be aware that their personal liberty was also supposed to be at its disposal. They know that their meritorious sons, Messrs. Ingham and Duane, had been ignominiously dismissed from office without a cause; but they may not know that it was contemplated to drag fourteen of her most distinguished citizens as criminals before this House. He wished the people of that State to read the reports and determine whether they would permit this to be done. Whether that State might not think proper to interfere and rescue the personal rights and liberties of her citizens to be invaded in the manner proposed—

[The CHAIR interposed. This was a question of printing merely. The debate at large on the subject was postponed until Tuesday, and could not be thus incidentally entered into.]

Mr. P. said he would not pursue the topic at this time. The grounds taken by the House in the adoption of the resolution ought to be understood. The people should know the flagrant violation of their rights that had been committed by the House.

[The CHAIR said, no reflections upon the proceedings of the House were in order.

Mr. PATTON hoped the gentleman would be permitted to proceed, and that an opportunity would be afforded for reply.

The CHAIR said, order must be preserved.]

Mr. PINCKNEY wished the doctrines in these documents to be disseminated universally throughout the State of Pennsylvania, and that her citizens might determine whether the proceedings of this House, and the measures proposed by this committee, do not involve an assumption of power which it may be the duty of that State to resist. If her citizens should be brought to the bar of the House, under the resolution reported by the committee, he could not say which idea would be most mortifying to him—that the House should have so far transcended its authority, or that the State of Pennsylvania should have tamely submitted to such a usurpation, &c.

Mr. MASON had not seen the report of the minority of the committee, but had no manner of objection that it should accompany the report of the majority. He trusted the example of the gentleman from South Carolina [Mr. PINCKNEY] would not be followed. He was not disposed to forestall public opinion as to the merits of either of these reports. As to his own share in the proceedings, he was prepared to abide the severest scrutiny to which his conduct could be subjected. A day had been assigned for the consideration of this subject; when that arrived he hoped a full discussion would be gone into; at this time he hoped the question would be taken without going into any further irregular discussion.

Mr. BYNUM said he was sorry that the honorable gentleman from Pennsylvania had consented to accept of the amendment of the honorable member from Masachusetts, as he conceived that amendment to have a partial reflection on a certain party in this House. He was prepared to vote for the original motion of the gentleman from Pennsylvania. He stood on his own responsibility, and held himself amenable to no earthly power for his acts, except to that portion of the people whom he alone directly represented here.

[Mr. B. was about to enter into an argument on the merits of the amendment, when the Speaker stated the amendment had been acted on, and his remarks in relation to it would be out of order.]

Mr. B. then said his principal object in rising had been to reply to the extraordinary remarks of the honorable member from South Carolina [Mr. PINCKNEY] who had just taken his seat, and asked if it would be in order to reply to some remarks that had just fallen from that honorable member.

The SPEAKER replied it would, and asked Mr. B. to proceed.

Mr. BYNUM then said that it was strange that the gentleman had been guilty of the very thing that he, and the party with which he acted, had just complained of. It had been said that the object of the majority of the committee, in their report, was to forestall public opinion. Now, he asked, what was the object of the gentleman in denouncing, in advance, the report of the majority of the bank committee? What was it done for by the gentleman, if it were not to prejudge it? The report of the

committee was not now under consideration. The gentleman must have had an object in doing what he did; then if it was a reasonable object, it certainly was to prejudice, beforehand, the people of the country against that report. He considered such a course unfair and unjustifiable.

The honorable gentleman had called on Pennsylvania to wake up, and resist the outrageous usurpations about to be practised on her citizens. He had no doubt that the poor, ignorant, benighted Pennsylvanians would be greatly obliged to that honorable gentleman for taking charge of their interests on this floor, and for the great solicitude that he had expressed to have for them--poor, ignorant creatures, unenlightened, uninformed as they were of the course they ought to pursue, as was thought by the intelligent gentleman from South Carolina. He asked if a poor farmer had treated with contempt the mandates of the representatives of this House, if there would be, in all probability, so many tears shed by gentlemen, when the simple process of arrest was proposed by this House to be served on him? He doubted very much if he might not be dragged here, without a single sympathy of honorable gentlemen who now manifested so much sensibility with regard to Nicholas Biddle and his bank associates.

It was now evident, and it was unnecessary to attempt to conceal it longer, that there were only two great parties in this country: one arrayed in favor of the government of the bank, and the other in favor of the government of the people. Gentlemen had shown their cloven-foot too plainly to be misunderstood by any intelligent mind; their object was to defend the bank, and protect it in whatever course she might pursue. His object was the reverse; he was determined to defend and protect, as far as he was able, the Government and the people, in defiance of the bank and its mercenary advocates. He bowed to and recognised no tyrants nor tyrannical institutions, but to the tyrant, people; they were the only tyrants to whom he would bow or obey.

The gentleman from South Carolina had, in his usual course, denounced the President as a tyrant and usurper. Indeed, if a stranger were present, and not accurately acquainted with the proceedings of this House, and with the nature of the subject before it, he would take it for granted that the President had drawn up the tyrannical report of the majority of the bank committee. What had the President to do with that committee, or its report? He really did not see in what manner the gentleman could reasonably make the President guilty of the tyranny and usurpation which had been committed on the bank by the enlightened and intelligent committee, appointed by an overwhelming majority of this House, to investigate its concerns. The gentleman had said, too, that the President had made war on the Senate. He denied it. It was the reverse. The Senate had made war—[Here the SPEAKER said that he called the gentleman from South Carolina to order when he made that remark, and it was out of order to reply to it.] Mr. B. then said that there was a desperate, reckless party, that had, not only in this House, but in other places, seized every occasion, however irrelevant, to abuse and denounce the President of the United States as a tyrant and usurper. It was done to produce a revolution in public sentiment, with the sole purpose of bringing into power those reckless persons who were ready to produce any revolution in order to turn themselves uppermost.

Yes, they were willing to see the fairest and happiest country deluged in blood and desolation, the world ever saw, to wreak their vengeance on that venerable old patriot who now occupied the White House to their exclusion. But for him, they thought their unbridled ambition might have been long since gratified. He was the only barrier between them and the great object of their ambition. Mr. B. said that the President had been placed there by the People, by a most overwhelming majority, and he hoped, in spite of the efforts of such a party, and their bank government to aid them, the people would sustain him so long as he so nobly adhered to their rights and interests, in defence of which he was now willing to sacrifice his all. He was glad that the gentleman had thought fit to arraign this House for the exercise of tyranny and usurpation towards the bank government. Yes, the representatives of the whole people had also been guilty of usurpation and tyranny towards the bank. But who were those that had been guilty of this usurpation? the members of this House, and many of them the warmest friends of the bank, for many of them voted to clothe this very committee with the very power that they had exercised, and proposed now to exercise. Were they, then, not as culpable as the committee, who only proposed to execute the powers granted them by the House? Certainly, he thought that those who gave the powers to the committee were the persons guilty of the usurpation, and among them was, he believed, a majority of the warmest friends of the bank in the House. But the cry of usurpation and tyranny had been set afloat to gull and impose on the poor ignorant people, no doubt as gentlemen thought, and he expected next to hear that the people themselves had become the tyrants and usurpers of the powers and rights of this precious monopoly; of this most arrogant and corrupt institution, that is now bidding defiance to the Government of the whole nation and its authority The gentleman from South Carolina seemed much alarmed as to the power of the House to arrest a citizen in Pennsylvania, and bring him here to testify before this body. He thought there was no more cause for alarm than there should be in case the court of the United States were to issue a subpœna to arrest an individual to appear before it in this city. The same power that had given this right to the court of the United States, had given it to this body, as a collateral branch of the Government. He could not, then, see why such extraordinary sensibility should be felt by honorable gentlemen on the present occasion, except for the extraordinary interest taken on behalf of the bank and its officers.

What had we heard, said Mr. B.? Had not the gentleman called upon the good people of Pennsylvania to resist the civil authorities of the Government? Had he not here, and on this floor, endeavored to excite the good people of that patriotic State to rebellion? Yes, sir, to rebellion.

[Mr. PINCKNEY rose in explanation. He denied having called upon Pennsylvania to resist; he had only thrown out a surmise that she might think it her duty to do so, if the House should transcend its just authority.]

Mr. BYNUM resumed. He said he was very glad that the gentleman had disavowed his assertion, as he certainly understood him to have said what he had stated, most distinctly; but he was glad that the gentleman had now qualified his remarks on that subject. He hoped no member of this House was capable of wishing to excite a rebellion in this country, however desperate might be the fortunes of their political party. It had already come to this, that the House of Representatives was accused of usurpation and tyranny: he supposed the next step would be to accuse the people of being tyrants.

[Mr. WATMOUGH interposed, and inquired if this had reference to the subject?

Mr. LYTLE said the gentleman should take down the exceptionable words.

The CHAIR did not sustain the objection of Mr. WATMOUGH, but entreated Mr. BYNUM to keep within the limits of order.]

Mr. BYNUM continued. He should like to know why such alarm should be felt at the proposition of the com-

mittee simply to arrest persons at a distance and have them brought here to testify, when almost every judicial tribunal in the country, of any consequence, had exercised this power almost a thousand times over, without the least alarm or complaint being made in any quarter. Were the persons connected with this bank to have superior privileges to any other class of citizens of this country? He hoped not. He hoped that the freemen of America would never consent that a few bankers should be more exempt from arrests, or any other regular process of the laws of this country, than any other plain men of the community. He saw nothing in the report of the majority of the committee that had alarmed him in the least.

The powers which it proposed to be exercised, had been exercised by bodies of much inferior dignity, a hundred times over, without prejudice to the citizen, or material injury to any one. He thought the charge against the committee, of usurping arbitrary power, of the same class with those that had been so profusely made against the Executive, both of which were equally, he thought, unfounded, and coined with the same intent. The people were not so blind, he hoped, as not to see through the game that certain political jugglers were endeavoring to play on them here and elsewhere. It was in vain to try to screen the conduct of the bank, by attempting to draw off from it the attention of the people, by setting up a cry of tyranny and usurpation against all who dare to question the purity of its conduct, and who will not consent to bow before its golden altar. The keen-sighted people would never be diverted from their object by such shifts to avoid a strict investigation into the conduct of the bank; and those who expected to succeed by resorting to such means, his life upon it, would be wofully deceived, when fairly confronted before the mass of the great body of the American people. The honorable gentleman and his party deceived themselves, if they thought that they were to succeed by imposing on the honest freemen of this country, philipics and bitter denunciations of all who presumed to differ from them, as being the advocates of tyranny and usurpation. The people were not so ignorant as not to require proof of such charges, before they proceed to condemn some of the best and purest of men.

He had submitted his views in reply to the honorable gentleman, simply to let him know that there were others in this House who entertained opinions directly at variance with those the honorable gentleman entertained, and who were as tenacious and as conscientious of them as the honorable member could possibly be of his.

Mr. HAWES said, from appearances, if the discussion were not stopped, it would occupy the whole day. There was other important business before the House. He therefore moved that the motion be laid on the table.

On this motion, Mr. PLUMMER called for the yeas and nays, but the House refused to order them.

The motion was negatived without a count.

Mr. LYTLE felt an imperative obligation to make a brief explanation for the satisfaction of the House as well as himself. The committee were unanimously of opinion that both reports should be printed in the same volume. Every individual expressed an entire willingness that the views of both sides should be presented together. He had been amazed and confounded at the course of this debate. The House had been told that the majority of the committee had desired to "forestall" public opinion.

The CHAIR said no such charge had been made to the understanding of the Chair.

Mr. LYTLE said such a charge had been made by the gentleman from Rhode Island, [Mr. BURGES.]

The CHAIR said it could only have been stated hypothetically, or that gentleman would have been called to order.

Mr. LYTLE said that between the Speaker and himself an honest difference of opinion might exist; but the obvious tendency and design of the remark of the gentleman from Rhode Island was to make that charge. If it was not, he could deny the fact. He threw the charge back with scorn and contempt, from whatever source it might emanate, as a gross libel upon the motives and conduct of the committee. So far from any portion of the committee desiring to "forestall public opinion" by printing these reports separately, it was their unanimous opinion that they should be printed together. If the public printer has printed separately the copies designed for the use of the members, it was a matter which, so far as he knew, rested entirely between the Clerk and the printer.

He fully agreed with the gentleman from South Carolina, [Mr. PINCKNEY,] that the largest number proposed should be printed. He wished the people of this country to understand the position which had been taken by the bank. A new and distinct issue had been formed. It was no longer a mere question of bank or no bank. It was one of infinitely greater importance—whether a moneyed corporation was stronger than the Government which gave it existence; and whether the representatives of the people did or did not possess the right of examination, expressly reserved in the charter. This was the true issue which had been raised by the directors of this corporation.

It had afforded the gentleman from South Carolina [Mr. PINCKNEY] an opportunity of urging upon the minds of the people of Pennsylvania the odious doctrines of nullification. It would, no doubt, be exceedingly agreeable to that gentleman to associate Pennsylvania with South Carolina in such a cause. But, if he expected to effect this, he had misconceived public opinion. The effervescence of feeling which had been displayed upon a late festive occasion was limited and superficial, and can be traced to causes altogether distinct from political partialities or sympathies, on the part of the people of that great State. The State of Pennsylvania was still sound to the core. She could not be deluded or seduced from her devotion to the constitution. She was still the key-stone of the Union—bank or no bank. He did not propose to go into a discussion of the report at this time, but was prepared to defend every inch of ground taken by the committee. The report was a naked chronicle of their proceedings, concluding with resolutions which were intended as a mere synopsis of what the committee considered necessary, in order to vindicate themselves and this House from the insults heaped upon them by the managers of the bank.

The attempt that had been made, soon after the appointment of the committee, to "forestall" public opinion, by the bank organ in this city, he should consider to be a proper subject of future inquiry. The conductors of the National Intelligencer had dared to asperse the motives and conduct of this committee. As the official organs of the bank, they had, "by authority," (he quoted from memory,) announced to this House that it should be protected, through the well-known purity and elevated character of the president and directors of the bank, from the unworthy scrutiny and nefarious designs of the committee of their own appointment. Thus it appears that the first attempt to "forestall" public opinion was made by the printers to Congress; and we all know that the same line of conduct has been industriously pursued by the other pensioned presses of the bank throughout the Union.

He hoped the two reports, in accordance with the opinion of the committee, would be printed together, and that the largest number would be printed.

Mr. SUTHERLAND said he felt very thankful, so far as he was concerned, as an humble member from the

State of Pennsylvania, to the gentleman from South Carolina, [Mr. Pinckney,] for the interest he had expressed for the diffusion of intelligence among her citizens. If that gentleman had reflected that the motion to print had come from the State of Pennsylvania, he might have spared himself some portion of his sympathy.

[Mr. Pinckney wished to explain. It was not Pennsylvania alone which he wished to enlighten, but the whole United States. He was not before aware that the motion to print had originated with a member from Pennsylvania.]

Mr. Sutherland said it was not in order to debate the general question. He should not have risen, but from the appeals which had been made in behalf of poor Pennsylvania. The gentleman from South Carolina [Mr. Pinckney] would do well to look at home. The people of South Carolina would not suffer from an increase of useful information.

Mr. HAWES again moved to lay the motion to print on the table; which was negatived without a division.

After some remarks by Mr. Coulter, the question was stated on filling the blank with the highest number, thirty thousand.

Mr. PINCKNEY moved to fill the blank with forty thousand; which was negatived without a division.

The question was then taken on filling the blank with thirty thousand; which was carried: Yeas 93, nays 89.

The motion to print thirty thousand copies of both reports was then adopted without a division.

THE COMMUTATION BILL

Was then taken up; and, after a debate, in which all the questions formerly mooted were rediscussed, the pending motion to reconsider the vote by which the bill had been recommitted was negatived, by yeas and nays, as follows: Yeas 76, nays 104.

So the bill remains in Committee of the Whole on the state of the Union.

THE COIN BILL

Was then taken up; and the question being on its passage

Mr. GORHAM moved to recommit the bill, with instructions, making the dollars of South America a lawful tender by tale, under certain conditions.

After a desultory debate—

Mr. BOON moved the previous question; but the House refused to second it: Yeas 73, nays 80.

Mr. JONES moved to commit the bill to a Committee of the Whole on the state of the Union, with instructions; which prevailed: Yeas 86, nays 82.

The House immediately went into such committee, Mr. Briggs in the chair.

Mr. WHITE moved that the committee rise and report the bill according to the instructions; which was agreed to.

The bill was then reported as amended.

Mr. WHITE moved that the bill be engrossed and read a third time immediately; which was done—

When the bill was passed and sent to the Senate.

And then the House adjourned.

Wednesday, May 28.

POLISH EXILES.

Mr. J. Q. ADAMS obtained leave to submit a motion granting the use of the hall for a public meeting, to be held to devise means for the relief of the Polish exiles, on to-morrow evening, the former meeting having failed from the inclemency of the weather.

The motion prevailed; and the use of the hall was agreed to.

Mr. CHILTON asked the unanimous consent of the House to submit a resolution fixing ten o'clock, A. M. as the hour for the House of Representatives to assemble for the residue of the session.

Objection having been made—

Mr. CHILTON moved a suspension of the rule, and called for the yeas and nays on his motion to suspend.

The House refused to order them: Yeas 20, nays 102.

Mr. CHILTON then withdrew his resolution, for the purpose of modifying it; and the House resumed the consideration of the reports on

THE KENTUCKY ELECTION;

The question pending being the resolution reported from the Committee of Elections, declaring Thomas P. Moore to be entitled to a seat in this House, from the fifth congressional district of Kentucky.

The question being on the amendment offered as a substitute by Mr. Banks, that the votes given in Garrard county before ten o'clock on the first day of the election, while Moses Grant, Esq. acted as one of the judges; and the votes given on the second day, in the absence of the sheriff, ought to be counted, in ascertaining the result of the election—

Mr. VANDERPOEL rose and said:

He was too fully sensible of the impatience of the House, not to know that a long speech upon the subject now under consideration would not find much favor; but, as a member of the committee whose report had been so elaborately criticised, he felt it his duty to say a few words in its vindication. But, said Mr. V., even this duty is rendered almost superfluous by the very able, unanswerable, and yet unanswered argument of the gentleman from Ohio, [Mr. Hamer,] who was his associate on that committee—an argument so fair, so cogent and conclusive, that, while it must have produced an influence upon all listeners here in relation to the pending question, cannot fail to secure to the honorable gentleman from Ohio a proud and enviable place, not among the declaimers, but, what is much more rare, sir, among the logicians on this floor. Yes, sir, this, his first and very fortunate effort, is a sure earnest of that elevated rank he will one day secure here, should his constituents continue to favor him with the manifestation of their confidence.

Sir, said Mr. V., as a member of the Committee of Elections, I was not unaware of the high responsibilities connected with the station, of the great interest which the contending candidates and their respective friends felt in the question submitted to us, and of the importance of establishing correct principles in cases growing out of the exercise of that privilege which is so dear to Americans. We knew, sir, that whatever result we might attain was doomed to encounter the severest criticism and the most sturdy opposition of a portion of this House; and the course which the debate has already taken shows that, in this particular at least, our expectations are to be fully realized.

It is well, said Mr. V., that the House should understand upon what grounds the respective parties based their claim to a decision in their favor. From the course which the debate has thus far taken, and the time that has been consumed in the discussion of the votes taken at Lancaster on the morning of the first day, before ten o'clock, and on the second day, when the sheriff was absent, an impression has probably been made upon some gentlemen, who have not looked critically into this mass of evidence which lies upon your table, that this question concerning the Lancaster votes is the controlling, if not the only question in the case. I beg gentlemen to discard this notion before we proceed another step in this matter. So far from this being the only point in the case, it will appear, from a reference to the report of the majority of the committee, that, laying this point (which gentlemen have seen fit to denominate and misname as

"technical") entirely out of view, and regarding all the votes taken at Lancaster as good, when Grant officiated as judge, before ten o'clock in the morning, and when the sheriff was absent, on the second day of the election, there would still be left a majority of six votes in favor of Mr. Moore. According to the report of the majority, after the polls were purged of all spurious votes, Mr. Moore had 3,115 votes, and Mr. Letcher had 3,109 votes; and this, too, after giving Mr. Letcher the full benefit of these Lancaster votes proposed to be rejected by the committee.

It must be remembered, sir, that various points were taken by the parties besides the one growing out of the alleged irregularity at Lancaster. Many votes were disallowed because the voters were non-residents of the State of Kentucky. Others were excluded because they were non-residents of the county in which they voted. Others were stricken off because they were minors, some because they were aliens, and a few were expunged because there was sufficient evidence that no such persons as appeared on the poll-books resided in the county in which their votes purported to have been given. After taking up and applying the testimony, and purging the polls of all the votes adjudged to be bad, on account of these various causes, the vote stood as above stated—3,115 for Moore, and 3,109 for Letcher.

Why is it, then, sir, that the gentleman from Georgia [Mr. CLAYTON] has told the House that the committee propose to give the seat to the candidate who appears to have received a minority of the votes of the legally qualified voters of the district, when the report tells us that, laying out of view the votes alleged to have been irregularly taken at Lancaster, Mr. Moore still has a majority of six? I am well aware, sir, that some of the acts of the majority in purging the polls and applying their own rules are assailed in the report of the minority; yet this does not disprove the unfairness of the remark, that, by striking off the votes taken at Lancaster while Grant officiated and Kennedy was absent, the committee propose to give the seat to the minority candidate. So far from admitting, sir, that the objection against the Lancaster votes is one of form and technicality, I shall attempt to show that it is one of vitality and substance. But if it were otherwise, is it correct to say, after referring to the report of the majority, that they propose to give the seat to a candidate who has a minority of the votes; that the intention of the majority of the electors is proposed to be frustrated; and that Mr. Letcher is to be sacrificed to form—either to "substantial form or formal form," if I may be permitted to borrow the nice and to me novel distinction of the gentleman from Pennsylvania, [Mr. BINNEY.]

The amendment of the gentleman from Pennsylvania, [Mr. BANKS,] who was a member of the committee, proposes, as a kind of preliminary operation, to try the sense of the House as to the Lancaster votes charged in the report of the majority as irregular. Before we proceed any further in the discussion, let us distinctly understand the facts in relation to these contested Lancaster votes, which I propose, in imitation of the example of the honorable gentleman from Pennsylvania, mainly, if not solely, to discuss. The act of the Legislature of Kentucky regulating the manner in which elections shall be held in that State, provides "that the justices of the county court, at their court next preceding the election, shall appoint two of their own body as judges of the election, and also a clerk, with the following proviso, viz:

"In case the county court shall fail to make such appointment, or the persons appointed, or any of them, fail to attend, the sheriff shall, immediately preceding the election, appoint proper persons to act in their stead."

It is provided, in the first section of the same act, that the sheriff or other presiding officer shall, on the day of every election, open the poll by ten o'clock in the morning. In the third section it is provided that the judges of the election and clerk, before they proceed to the execution of their duty, shall take the oath prescribed by the constitution. They shall attend to receiving the votes until the election is completed, and a fair statement made of the whole amount thereof, &c.

The county court of Garrard county had, at their term next preceding the election, appointed Isaac Marksbury and William Wheeler judges of the election. Mr. Marksbury refused to act, and Lewis Landrum was appointed by the sheriff to supply his place. At about nine o'clock on the morning of the first day of the election, Mr. Wheeler not having arrived, the sheriff appointed Moses Grant to act in his stead. Grant, under this appointment, officiated till about ten o'clock, when Wheeler arrived and took his seat as one of the judges, and Grant left the bench. During the time that Wheeler thus acted, it appears that twenty-two votes were given for Mr. Letcher, and three for Mr. Moore. It appears also, that, on the second day of the election, the sheriff was for a considerable time absent when votes were taken. The majority of the committee contend that these votes, thus taken in the absence of the sheriff, ought also to be disallowed. Should these votes, thus taken on the first day, when Grant officiated as judge, and on the second day, when the sheriff was absent, be rejected, the loss of Mr. Letcher in consequence of it will be thirty-eight—as Mr. Letcher received during these periods fifty-four votes, and Mr. Moore sixteen votes.

The question proposed, then, by the gentleman from Pennsylvania [Mr. BANKS] is, Shall Mr. Letcher lose this balance of thirty-eight votes, thus alleged to have been illegally taken? Should the House decide that they were illegally received, it will be decisive of the case, but should a contrary decision be made, then, as it would seem from the report of the minority, a most strenuous effort will be made to fritter away the remaining majority of six, by attacking the details by which the result of the majority was attained. I am not afraid, sir, to subject the doings of the majority of the committee to such an ordeal; but this I will say, that if the House shall take up every contested vote, apply the testimony to it, and determine whether the conclusion at which the committee have arrived is justified by the testimony or not, we must abandon all idea of entering upon any other business before the termination of this session. This labor will necessarily devolve upon us, if Mr. Letcher shall be adjudged to be entitled to the votes taken at Lancaster which were disallowed to him by the majority of the committee. Formidable as the task may be, we must not shrink from it, should it become indispensable to a correct decision of this case.

I come now, sir, directly to the question proposed by the amendment of the gentleman from Pennsylvania, [Mr. BANKS.] Were the votes taken at Lancaster on the morning of the first day, when Grant acted as judge, and on the second day, when the sheriff was absent, good; and ought they to be allowed?

1st. I contend that Grant's appointment, made by the sheriff before ten o'clock, was void; that he was a usurper; and that the votes taken while he presided should be disallowed.

But, sir, we are told by the very learned and distinguished gentleman from Pennsylvania, [Mr. BINNEY,] that this is an objection of form, and not of substance; that the rights of the voter are so sacred, that, in order to give effect to his will, we must overlook almost wholly the means by which an expression of that will was secured. Indeed! Is this an objection of form? No, sir; it is one emphatically of weight and substance, as I shall attempt to show.

Whether judges, lawfully and constitutionally appointed, and clothed with the requisite power, exercised that

power according to all the forms and formalities prescribed by law, is one question. But whether they had jurisdiction of the subject matter—whether they were in point of fact judges at all—and whether the whole proceeding was not *coram non judice*—this, sir, is quite a different matter. The former might be a question of form; the latter would indeed be one of substance. The question here, be it remembered, sir, involves the very existence of the court that has assumed and exercised jurisdiction; not whether the court has strictly observed all the forms prescribed by the law, but whether the tribunal contemplated and required by the law and the constitution, acted at all. And yet gentlemen, in their overweening anxiety in this case to give effect to the will of the voter, would almost seem to contend that the existence or non-existence of a legal board, or court, to receive the votes, is all a mere question of form.

The gentleman from Pennsylvania [Mr. Binney] has favored us with several examples, by way of showing that the non-observance of mere matters of form on the part of the judges and inspectors of an election, cannot vitiate such election, or affect the rights of the electors. He tells us that the law of Kentucky requires proclamation after an election, to be made in the court-house yard—and asks us, with an air of triumph, whether, if he omitted to make proclamation, "in the court-house yard," or if there were no yard, if he should make proclamation in the street or elsewhere, whether, for such omission of, or deviation from, the forms and ceremonies prescribed by law, we would declare the election void? Certainly not. But I ask gentlemen, in all candor, whether the mere omission to perform such a ceremony, after the judges, the organs or instruments through which an election is to be accomplished, is not altogether a different affair from the question, whether such organs or instruments were ever created, or ever existed.

So as to the case of Prior Lea, which was also put to us by the gentleman. There the inspectors, the court, if you please, had a legal existence. The law of Tennessee required that, at the close of each day of the election, the returning officer (sheriff) should, in the presence of the inspectors, put his seal on the place to be made for the reception of the tickets, which should continue until the election should be renewed the succeeding day, and that it should be the duty of the inspectors to take charge of the box until the polls were opened the next day, and the seal should then be taken off in presence of the inspectors. There, in one precinct, the ballot-box, after the poll closed, was left in the hands of the sheriff, instead of being left in the hands of one of the judges, as the law required; and in another precinct, instead of a ballot-box, a gourd was used. The election was proved to have been perfectly fair, the ballot-boxes were proved to have been kept in a safe place, secure from invasion from any quarter, and the committee, and I believe the House, held that a non-compliance with these requisitions of the statute as to the box and the sealing of the box, should not vitiate the election. There is no analogy, sir, between that case and the one now under discussion. The omissions there complained of, were comparatively formal omissions. The tribunal there was complete; there was no usurper there. The judges were clothed with lawful authority, and executed their duties informally. Here, be it always remembered, the objection is fundamental; it is, that there was only one judge to receive the votes, and consequently no such board or court as the law of Kentucky made indispensable.

The gentleman from Pennsylvania [Mr. Binney] tells us that the votes taken while Grant officiated in the morning were all given by legally qualified voters, and that it would be extremely hard to disallow them on the ground that there were but two legally authorized parties to receive them, when the law required three.

Let us see, sir, where this argument would end. The right of suffrage, sir, with all the eulogies it has so justly received during this discussion, is not more dear than life, liberty, and property. In most, if not all the States, we have tribunals called county courts, or courts of general sessions, which have criminal jurisdiction. In the State of New York the number of three judges is necessary to constitute a court. Suppose a citizen indicted for crime, and put on his trial before such tribunal; only two of the judges are present and preside, a third gentleman (some Grant if you please) claiming to be a judge, to be sure sits with and co-operates with them, but he is a mere usurper, without commission or pretence of authority--a verdict goes against the accused—would this verdict be regular, or would the judgment, which such court might render on this verdict be void? In short, would not all the proceedings, from the commencement of the trial to the end, be void, as having been *coram non judice?* Is there a lawyer on this floor who can doubt it? And what might not be urged with great plausibility, though in vain, in such a case? It might peradventure be said, as has been so loudly and repeatedly said here, "substantial justice has been done," the jurors were both judges of the law and the fact. If this half-formed court committed any errors, they were committed in favor of the accused. Every point of law was decided in favor of the prisoner; the jury were expressly charged that the evidence for the prosecution was insufficient to authorize a conviction. They deliberated long and patiently, and weighed and canvassed the whole testimony impartially, and decided honestly; and yet no gentleman can for a moment doubt that, persuasive as might be all these considerations, the trial had and verdict rendered under the auspices of this imperfect court, would unhesitatingly be set aside. Suppose the verdict in favor of the prisoner—would it be a bar to, or protection against, another trial? Could he, after such an exposure, effectually seize for his shield that clause of the constitution which provides that "no person shall be twice put in jeopardy for the same cause?" It will not be pretended, sir.

Sir, I might multiply examples without number, to show the fallacy and danger of the notion that when substantial justice has been done, it is useless or inadmissible to inquire how or by whom it was administered. Take the familiar case of twelve jurors: suppose eleven only of their number to be sworn, and the twelfth omitted to be sworn. Is it not too clear a proposition to urge, sir, that this omission to swear the twelfth man would be fatal to the verdict, however perfectly it might accord with the justice of the case? The juror who was not sworn may not have been aware of the fact, he may have come to the same conclusion that he would have arrived at had his conscience been bound by an oath--yet he was no juror in the eye of the law, and the verdict would therefore be null and void.

Because substantial justice has been done in a case involving life, liberty, and property, it seems it is not enough to say that it is immaterial by whom it was done, whether all the organs and means required by law were employed in doing it or not. Why should a different rule prevail in a case involving the elective privilege? Is it more dear than life? Is it more sacred than liberty? Let not gentlemen too readily embrace the idea, that the objection to the Lancaster votes, while Grant presided, is a mere formal objection. No, sir; it is a question of great weight and substance. It involves, as I will presently undertake to show, the question, whether the constitution and the laws of the country have any binding efficacy in this hall? It is, recollect, sir, a question, not whether the court did its formal duty in relation to the subject-matter, within its province, whether it respected all the forms of law, but whether any court acted upon the subject-matter at all. There is no sounder rule than this, that the

absence of one member, when the law requires a certain number to do an official act, is as fatal as the absence of all.

I now, sir, come to the second branch of this subject, viz: Was Grant, who acted before 10 o'clock in the morning, a judge appointed according to the constitution and laws of Kentucky? In order to determine this point, it becomes necessary to inquire, what is the extent of the power of this House in cases of contested elections, when it is called upon to judge of the election returns and qualifications of its own members, and what power we have here to disregard or excuse a non-compliance with the laws of any State, prescribing the time, place, or manner of holding an election for representatives.

The fourth section of the first article of the constitution of the United States provides "that the times, places, and mannner of holding elections, in the several States, shall be prescribed in each State by the Legislature thereof; but that Congress may, at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

The fifth section of the same constitution provides that "each House shall be the judge of the election returns and qualifications of its own members."

1st. The times, places, and manner of holding the elections, it seems, then, shall be prescribed in each State, "by the Legislature thereof." The next clause, which provides that Congress may, at any time, make or alter such regulations, certainly does not reserve to Congress any *ex post fac'o* power. If the State prescribes the time, place, and manner, and an election is held according to such time, place, and manner, neither the separate action of this House nor can any subsequent legislation of Congress retroact, so as to remedy a particular and past evil, that has flowed from the observance of such direction as to time, place, and manner. No, sir. The legislation of Congress must be prospective, so that if an election has been held according to the directions of a law of a State as to time, place, and manner, and Congress then perceives, when the contested case comes before it, that the time, place, and manner is unreasonable, and is calculated to work mischief, or has wrought mischief in the given case, it is not competent for this House, in its separate, or Congress, in its legislative capacity, to remedy the past evil that may have flowed from an adherence to the time, place, or manner prescribed by the State Legislature; because the Legislature, in establishing the time, place, and manner of holding the election, acted under an express delegation of power and authority for that purpose from that very constitution under which we sit here. Unless then, sir, we, the creatures, can here, in our official capacity, rise above or nullify the creator that has given us our official being, it is not in our power to overrule or disobey the legislation of a State, in substantial particulars, as to the "time, place, and manner" in which an election is to be held. If that legislation is calculated to work mischief, let Congress interpose its legislative power, and remedy it as to the future. The past is beyond the control either of Congress or of this House.

But, sir, if we should yield our unqualified assent to the argument of the honorable gentleman from Pennsylvania, [Mr. BINNEY,] we would conclude that Congress derives most paramount and overwhelming power from the fifth section of the constitution, which provides that "each House shall be the judge of the election returns and qualifications of its own members." I most strenuously contend, sir, that this section is subordinate to that clause of the fourth section which provides that "the times, places, and manner of holding elections for representatives of Congress shall be prescribed in each State by the Legislature thereof." Both sections must be so construed as that effect may be given to both. Yes, sir, they must be so construed, as the lawyers would say, "*ut res magis valeat quam pereat.*" This fifth section, sir, can only be held to mean, if we are willing to give effect to the whole constitution, that each House shall be the judge of the election returns and qualifications of its own members, subject, however, in the absence of any congressional legislation, to the provisions of any State law in relation to these particulars, of the time, place, and manner of holding the elections for representatives in Congress.

The idea is, therefore, unsound and dangerous in the extreme, that, in our anxiety to carry into effect the intention of the elector, and give effect to his choice, we can disregard the injunctions of the laws of the States, as to these important particulars, which the constitution, under which we here sit, expressly subjects to State legislation. They are of sufficient importance, sir, to have provoked a constitutional provision in regard to them; and it is a most dangerous, alarming, and worse than nullifying heresy, now to contend that when a contested question comes here, we are omnipotent; that we are at liberty here, with unrestrained impetuosity, to rush to the single end, as to who received a majority of the votes of the legally qualified voters, without at all regarding the means by which that end was attained.

The constitution and law of Kentucky comes in, sir, and does what the constitution of the United States, in express terms, authorizes a State do. They prescribe the time, place, and manner of holding the elections for representatives in Congress in the State of Kentucky. The time is on the first Monday of August. The place is to be at the court-house. The manner, the means, or instruments to carry it into effect, are the sheriff of the county, and a clerk and two judges, appointed by the county court at their term next preceding the election. Now, sir, are these matters of time, place, and manner, material, or are they mere formal matters, and will a deviation from those times, places, and manner prescribed by a State Legislature, under the authority given to it by the constitution of the United States, tend to vitiate an election?

First. The *time*. Is this material? I humbly apprehend that it will hardly be contended that the judges have a right to hold an election at a different time from that fixed by law. Should they open the polls on the first day of July, when the law expressly directs them to be opened on the first Monday of August, would not an objection to the validity of the election be well taken? And would it be an answer to this objection to say, in such case, that the electors were not defrauded, that all the electors in the district acquiesced in such arrangement, and that all voted? No, sir. The law being peremptory, it having been enacted according to the constitution, this House would not, could not, constitutionally, lay claim to a discretion that would overleap the law. It would look to consequences, to the dangerous precedent which the sanction of such a disregard of the express injunctions of the law would establish. It would protest most emphatically against the principle of prostrating those safeguards which the law and the constitution have planted around the elective privilege, and of subjecting it to the partiality, caprice, humor, and management of the partisans of the candidate.

The *place*. Is this material? Most indubitably, sir. We have an example in the case now under consideration, to demonstrate the materiality of the place, in regard to an election, and the total want of power or discretion in the judges of the election, to change the place prescribed by law. The judges in one of the precincts left the court-house where the election was held, and went to the house of a sick man, and took his vote for Mr. Letcher; and even the minority of the committee admitted, and every member of the House here will be ready to admit, that this vote was illegally taken, and ought to be rejected, no matter how perfect were the qualifications of the

voter. There, if you please, this "substantial justice," which, more potent than charity, would seem to cover or excuse all official delinquency on the part of the officers of the election, was done. The will of a qualified voter was carried into effect, and what would it have availed this infirm old man, if, to all the qualifications necessary to make him an elector of Kentucky, he had had it in his power to superadd this touching appeal: "In the days of my youth and my vigor, I fought the battles of my country; my blood aided in purchasing and securing the very privileges I now seek to exercise. The wounds I received in our great struggle for liberty, have brought on me premature old age and decrepitude. Here I am, prostrated by sickness and infirmity, and will you add to the physical agonies I am suffering, the agonizing reflection that I cannot be permitted to exercise the dearest right of a freeman, merely because I cannot even hobble on my crutches to the polls?" Though your sensibilities might be awakened by such an appeal, your judgment, sir, would war against a compliance with the good old man's wishes. You could not, then, you will not, in this instance, gratify him.

The time and the place, then, being so very material, I would inquire, why the next item in the account--I mean the manner, the means, the judges, the instruments, by which the election is to be carried into effect--are not equally material? The conduits through which the will of the voter is to flow here--are they less essential than the particulars of time and place? On what rational principle can gentlemen pretend so?

But it has been urged by the gentleman from Pennsylvania, [Mr. Binney,] with that force and plausibility which so eminently distinguish him, that we are a high court of equity; that we have power to decide this case, not only according to law, but according to our notions of equity; and all this, notwithstanding the constitution under which we here officially live and move and have our being, has expressly authorized the State to legislate as to these matters, which we are now required, in the plenitude of our fancied omnipotence, to leap over and disregard.

Sir, I know not whence we derive equitable powers, so transcendent as those which I have here, to my very great surprise, heard claimed for us—powers which enable us to set the constitution and laws at defiance, and authorize us here, in a judicial capacity, to exercise the despot's prerogative—to dispense justice according to our abstract notions of right and wrong. When, as an humble member of this House, I look into the mirror of the constitution, I do not, I cannot see myself panoplied in all the might and majesty which gentlemen now seem disposed to arrogate to us. No, sir; I find myself a mere worm of the constitution, bound by every obligation that can bind me to my country and my God, to execute and obey its high behests.

The gentleman from Pennsylvania, [Mr. Binney,] in illustration of his position that we are a high court of equity, with power competent to decide this question in such manner as at all events to carry into effect the will of the elector, puts to us a case illustrative of the high powers of a court of equity. He says that, if a law should require two subscribing witnesses to a deed in order to render it valid, it would be competent for a court of equity to adjudge and decree it valid if it had only one witness.

I know not, sir, what standard of equity prevails in Pennsylvania, where, I believe, they have no court of chancery. This circumstance does not, however, authorize the inference that the honorable gentleman's notions of equity are crude or unsound; for we have had too convincing proof of the high professional attainments of that honorable gentleman, not to know, sir, that he has drawn his resources from the richest fountains of legal lore. Though the gentleman has attributed to equity such high and alarming power as is indicated by the case of the deed which he has put, I may, sir, without incurring the charge of cherishing an unbecoming share of State pride, be permitted to say that in New York we have a court of chancery, which has for many, many years, been the pride of that great State—and has ever been graced by great and good officers. There, sir, it is one of the boasts of that distinguished tribunal, that it bows to the supremacy of the law. There equity is only held to be that wherein the law, by reason of its universality, is deficient. Our court of chancery in that State could not live a day, sir, if it claimed the right of overruling or setting at defiance the law. If our Legislature should, by express provision, declare that no deed should be valid unless it were signed by two witnesses, I venture to say that we never have had, and never will have, a chancellor with nerve enough to declare that one witness was sufficient to render it valid. If a Legislature or constitution should require three judges or members to give efficacy to an official act, I take it that no chancellor, in this or any other country that boasts of a constitutional government, would arrogate to himself the worse than despotic power of ordering and decreeing that one or two only were sufficient for that purpose. No court of chancery, to my knowledge, has ever asserted or usurped such high powers as are now claimed for this House--the right of disregarding, or, to use a more familiar term, of nullifying a State law, passed in pursuance of an express delegation of power from the constitution of the United States. If the rights of the voter are, as some gentlemen have contended, above the law, we, sir, are not so far above the constitution that created us, as to enable us to control matters which it has expressly committed to the control of another. If it has delegated to an agent, in the shape of a State Legislature, the power to legislate over particular subjects, that agent, when it so legislates, speaks the voice of the constitution; a voice which we cannot and dare not disobey.

Having attempted to establish, first, that the State of Kentucky acted within its constitutional province, when it prescribed the time, place, and manner of holding the election for representatives to Congress; second, that the appointment of judges to receive the votes of the electors is one of the modes, the manner of carrying an election into effect; and, thirdly, that a non-compliance with these requisitions, as to time, place, and manner, cannot be cured by any fancied omnipotence that rests here; I now, sir, propose to inquire whether the election before ten o'clock on the morning of the first day was an election according to the laws and the constitution of Kentucky.

The statute of Kentucky, which has already been in part recited, but which it becomes necessary for the purpose of my argument to repeat, enacts that the sheriff of each county shall advertise, at least one month before the first Monday in August, in every year, the time and place of holding the election, and what offices are to be filled; and that the sheriff or other presiding officer shall, on the day of election, open the polls by ten o'clock in the morning, and continue the same open until at least one hour before sunset each day; and directs the county court, at their session next preceding the election, to appoint two of their body as judges of the election, and a proper person to act as clerk; but in case the county court shall not appoint any person, or any of the persons appointed should fail to attend, the sheriff, immediately preceding any election, shall appoint proper persons to act in their stead. It also requires the judges of the election and clerk, before proceeding to act as such, to take the oath prescribed by the constitution; and expressly declares that they shall attend to the receiving of the votes until the election is comple-

ted, and a fair statement made of the whole amount thereof; and requires that the said persons entitled to suffrage shall, in the presence of said judges and sheriff, vote personally, publicly, and *viva voce*.

Now, sir, had the sheriff a right before ten o'clock of the morning of the first day, to declare that a vacancy existed, and appoint a judge in the place of the one who had been appointed by the county court? This, sir, is the question; not, as has been somewhat artfully urged, whether the sheriff had a right to open the polls before ten o'clock, all the judges being present.

I contend, sir, that the sheriff, most manifestly had only a right to appoint, in the alternative, upon a certain contingency; and if any rule of law, or any principle of common sense is well settled, it is this, that when a power is contingent, it cannot be exercised till such contingency clearly and unequivocally happens. The idea that the sheriff has a right to go to the place where the election is to be held at any time after midnight, and finding none of the regularly appointed judges there, appoint a full board, upon the assumption that all the judges appointed by the county court "have failed to attend," derogates from, and in effect may wholly destroy, the main and primary appointing power, selected and created by the Legislature, no doubt for wise purposes, from a regard, perhaps, to their superior fitness and qualifications.

The Legislature of Kentucky has certainly deemed the county court a safer depository for this appointing power than the sheriff. If not, it would have clothed the sheriff with full power to make the appointment in the first instance, and would not have provided another source of appointment.

It would, then, sir, be frustrating the intentions of the Legislature, to permit the sheriff, who had at most a mere secondary alternative appointing power, to anticipate, and wholly supersede, by any premature action on his part, the agency of that body which the Legislature deemed better fitted to exercise this high power of appointment than is the sheriff. Nay, more; it would be completely subjecting the elections to the control of partisan sheriffs. The friend of a particular candidate might have an understanding with the sheriff, to be at the court-house at day dawn in the morning; the competitor of his friend not having had notice of this intended manoeuvre, none of his friends are on the ground; the sheriff takes it upon himself to say that the judges appointed by the county court have "failed to attend," and appoints a full set of inspectors to preside at the election; he takes care that they are the adherents and supporters of his favorite candidate; the election proceeds; no one is present to challenge the voters, or gainsay the legality of the proceedings. By ten o'clock, the usual, and, as I contend, the legal time for opening the polls, two-thirds of the votes of a town or precinct may be given in, and by this operation on the part of the sheriff of "seizing time by the forelock," the fate of the election may be determined. Sir, is it safe, is it just to sanction a principle by which the rights both of the electors and the candidates may be exposed to such imminent danger from the partiality or corruption of a single man? The answer to this question will be involved in the decision which the House may give upon the amendment of the gentleman from Pennsylvania [Mr. BANKS] now under discussion.

We are told, sir, that the electors, according to the constitution of Kentucky, were entitled to three full days to give in their votes, and that the sheriff therefore had a right to open the polls at any time after twelve o'clock at night. Here, gentlemen are strict constitutionists. They would here hold us to the letter of the constitution; but when referred to a law of Kentucky, prescribing the manner of holding the election, then, it seems, indeed, that relaxation seems to be a darling principle with them. The rights of the voter, the will of the elector, are then so effulgent as not only to dazzle their imagination, but as to throw the positive requirements of a State law, made according to the constitution of the United States, entirely in the shade. Yes, sir, they are strict constitutionists of the most inflexible Southern school, when they are called upon to interpret the constitution of Kentucky, and more than ultra tariff, internal improvement, incidental power, national bank latitudinarians, when required to construe a law of Kentucky, made under the authority of the federal constitution.

Though the constitution of Kentucky provides that the election shall be held for three days, it was clearly competent for the Legislature of that State to provide that the poll should be opened at ten o'clock in the morning. The words "three days," sir, are not to be literally and strictly construed. No, sir. They must receive at our hands a reasonable interpretation. They may be construed to mean such portions of a day as shall consist with the convenience of the voter, and as shall secure the fairest and most thorough expression of the public will. If the law comes in, and fixes such an hour for the opening of the polls as shall consist with the convenience of the voter, and the fair and orderly expression of the public will, then, sir, this regulation of time works no abridgment of the rights of the elector, and is not therefore repugnant to the constitution. Constitutional provisions must necessarily be general. They cannot go into details. In order to carry them into practical operation, legislative additions are almost invariably necessary; and any legislative act which subserves the general interest or convenience of the parties for whose benefit, general interest, and convenience, such general constitutional provisions are made, cannot be deemed to be repugnant to such provisions. In order to show the fallacy of the argument that the electors are entitled to three full days, and that it is not competent for the Legislature of Kentucky to abridge the time by directing the elections to be held within particular hours of those days, I will only state a single example. The constitution or laws of some of the States provide that each term of their supreme court shall be held and shall continue four weeks. Give a literal construction to this provision, and what is the consequence? Why, suitors would within such term be entitled for twenty-four hours of each day to the services of the judges of the court. Sir, the interpretation insisted upon by the gentlemen who advocate the claims of Mr. Letcher, is about as reasonable as the construction attempted to be given to an act passed in the reign of one of the monarchs of England, and related by Sir William Blackstone, in his admirable Commentaries. The case is familiar to all professional gentlemen. A statute was passed denouncing a penalty against any person who should be guilty of drawing blood in the public streets; and it was by some insisted that this applied even to a physician who applied the lancet in the public highway to save the life of his patient.

It has, however, been contended, sir, that the Legislature has not, in express terms, fixed upon the hour of ten for opening the polls; that the expression, that the polls shall be opened by ten o'clock, contains no prohibition against opening them before that hour.

For the purpose of testing the validity or invalidity of Grant's appointment, made before ten o'clock, I hold that this clause or expression is equivalent to an express provision that the polls shall not be opened before ten o'clock. Whenever a party has a time provided by law for the doing of an act, he always has until the latest period of such time for the doing of it. The judges appointed the county court, had until ten o'clock to enter upon their duties. Let me state a few cases, sir, by way of illustrating and fortifying this position. Suppose an act of the Legislature of a State should provide that the criminal courts of each county of a State should consist

of three judges, and should be opened "by ten o'clock," but that, upon failure of one of the regular judges to attend, one of the aldermen of a city in such county should take his place and officiate as one of the judges, would the alderman's right to ascend the bench commence before ten o'clock? Sir, it will not, it cannot be pretended, that he would be other than a usurper, if he should take the judgment seat before that time; because the contingency that gave birth to his right would not yet have occurred. Again: Suppose a statute to provide that all sales of real estate, by virtue of executions, should be made by ten o'clock of a particular day of the week, by the sheriff of the county; but that, upon "failure of the sheriff to attend," such sale might be made by a deputy of the sheriff; would the deputy's right to act originate before ten o'clock, if the sale was not advertised for a particular hour? (as was the case here, it seems, in regard to the Lancaster election.) No lawyer, sir, would so far expose to contempt his head, or to suspicion his heart, as to contend, in such case, that the officer having a contingent power, had a right to act before such contingency clearly and unequivocally happened. Sir, these contingent powers must always be strictly construed, especially when they supersede primary and antecedent powers.

Much, sir, has been said about officers *de facto*, and the gentleman from Pennsylvania [Mr. BINNEY] expresses his astonishment that gentlemen, with a knowledge of the doctrine of *de facto* authority, would make a report like that of the majority of this committee; and here, sir, I must beg leave to remark, that I could not comprehend the meaning, or feel the force of all the refined reasoning of the honorable gentleman. Though he had my utmost attention, during the whole of his very elaborate speech, yet a portion of his arguments were either so subtle, so attenuated, as either to baffle my mental vision, or my intellectual optics were so blurred by the false lights in this case, upon which they may have been too long riveted, as to be wholly unable to perceive and appreciate the force of the honorable gentleman's positions. It is matter of consolation to me, however, while thus speculating as to the causes of my inability to understand all that the learned gentleman said, that I am not singular in this misfortune, but that other gentlemen, who can boast much more perspicacity than can the humble individual who now addresses you, have also complained of their utter inability to comprehend all the wiredrawn reasonings—I will not say all the refined sophisms, of the honorable gentleman.

But, sir, permit me to ask what is this magical doctrine of *de facto* authority, which, according to the notions of gentlemen, would seem to dispense with all legal and constitutional qualifications in public officers? I entreat gentlemen to recollect that our position is here, that if the sheriff had no right to appoint before ten o'clock, then Grant was a mere usurper, and was not clothed with even a *de facto* authority. If the appointing power, the foundation, was rotten, the superstructure must certainly fall to the ground. What, sir, is this doctrine of *de facto* authority? I have not, Mr. Speaker, had time to look into the cases, but, according to my recollection of them, it is this, that whenever a person assumes the duties of an office by color of right, and the public acquiesce in his acts so as to induce a fair presumption in the community that he is a legal officer, his acts and his authority will be sufficient to protect the rights of third persons, though his appointment to the office whose duties he discharges may have been informally made. Take the familiar case of a marshal or sheriff by reputation; he acts as such; the community day after day see him execute process as such; he is every where recognised as such; then, sir, any informality in his appointment shall not prejudice the rights of innocent third persons, because there, sir, is the ingredient of reputed authority, united with the ingredient of public submission to, and public aquiescence in, his authority. But, sir, if an individual should suddenly spring up in a county or district, and usurp the office of marshal or sheriff, and the same day he so usurps it, go abroad and execute its duties, I deny that the first, the isolated act of such usurper, would protect the rights of third persons. Here, sir, is a total want of that acquiescence in Grant's authority, which I suppose to be necessary to the perfection of this *de facto* authority. His agency there, that morning at Lancaster, was his first agency as a judge of the election; and, if it be true that a single act of a usurper cannot invest him with the character of an officer *de facto*, then Grant, most clearly, was not invested with the attributes of such officer. If a collector of a town should neglect to file his bond, and therefore his appointment might not technically be consummated, and he might, perhaps, be ousted by a *quo warranto*, yet payment to him would doubtless protect the community from a second tax-gatherer; but if a usurper should steal a copy of the assessment roll, and collect the assessments of some fifteen or twenty individuals before his usurpation was discovered, I maintain, sir, that a payment to him would be no protection against the demands of the legitimate tax-gatherer. Should a judge, who had not complied with all the forms and ceremonies necessary to consummate his appointment, sit upon the bench term after term, and discharge judicial functions, he could, no doubt, boast the character of an officer *de facto*, if he were not strictly one *de jure*; but suppose a man to mount the bench for the first time, who is a mere usurper, would his acts during such first term acquire the force and authority of acts emanating from a *de facto* officer. Most certainly not, sir.

But, sir, the distinction taken by the gentleman from Ohio, [Mr. HAMER,] between acts that are void and acts that are voidable, is a sound distinction. There is a wide difference between an officer who claims under an appointment that is merely defective or informal, and one who derives his appointment from a source that has no power to confer the office. In the one case, the objection is rather of a formal character; in the other, it is substantial and fundamental. If a man acts under an appointment derived from a proper source, but not made in strict conformity to all the requirements of the law, his office may be taken from him, and his authority may be voidable; but if he derives his office from a source that has no creating energy at all, he is as perfect a nonentity, as to any official power, as is the source from which he derives his office as to any creative power. It results from this reasoning, then, sir, that if I have succeeded in showing that the sheriff had no right to make a judge of Grant before ten o'clock in the morning, then Grant's authority, derived from the sheriff, was void, not voidable, and he had no more right to receive the votes than had any other elector who was at the Lancaster polls on the first day of the election.

There is another fatal objection, sir, to this appointment of Grant. The very commission (if I may call it so) given by the sheriff to Grant, at the time of his appointment, was void on its face. It appears abundantly, from the depositions on your table, that Grant was considered to be appointed only "till Wheeler came." The sheriff knew then, sir, that Wheeler, the judge appointed by the county court, would come, and that, therefore, there was not, and there would not be, "any failure to attend." And here another difficulty springs up which goes to demonstrate, most conclusively, the illegality of this whole proceeding. According to the law of Kentucky, the judge who opens the poll must close it; for the statute provides "that he shall attend to the receiving of the votes until the election is completed, and a true certificate make," &c. Now, sir, if Grant was lawfully ap-

pointed at nine o'clock, he was in for the entire election. The office of Wheeler was vacant, and he could not enter upon his duties without a new appointment. Still, though the sheriff had declared Wheeler's office vacant, and had undertaken to fill the vacancy, yet, when Wheeler arrived at ten o'clock, Grant left the bench, and Wheeler mounted it under his first appointment, which the sheriff had decided to be vacated. Wheeler certifies all the votes taken before ten o'clock, notwithstanding the peremptory requisition of the law that the judge who enters upon the duties of the office "shall attend to the receiving of the votes until the election is completed, and a true certificate make of the votes!" Could Wheeler, either in law, or in good sense and conscience, certify, under his oath of office, the votes taken when the *pro tempore* judge acted? Every gentleman will readily answer no; and yet, with all these accumulated and most formidable difficulties staring us in the face, there seems to be quite too great a facility here to say, Oh, all these objections are merely technical and formal. The will of the voter is our only polar star and guide, no matter in what manner that will was expressed. Sir, will not such doctrines, if they prevail, lead to anarchy—to the prostration of the rights of the elector, which we now seem so anxious to protect—to the blasting of all our hopes of the success of free government? If, sir, the fact of the sheriff's sinning here against light and knowledge, could possibly fortify the positions for which I have contended, then I might argue that the sheriff knew he violated the law, and practised a fraud upon the rights of the electors of the precinct where he opened the polls, and appointed a new judge at nine o'clock in the morning; for it appears from the depositions that, in 1831, when he was a candidate for an elective office, he protested against opening the polls before ten o'clock, and on this very occasion, on the morning of the first day of the election at Lancaster, he was expostulated with, and urged not to open the polls before ten o'clock. Yet, now, it seems he had a different view of his powers and duties from what he supposed belonged to a sheriff when he was a candidate a few short years ago. How true it is, Mr. Speaker, that the opinions of men depend very much upon the different positions in which they are placed.

This, sir, brings me to the inquiry whether the votes taken on the second day of the election, when the sheriff was absent, were received according to law. Mr. V. said he would not detain the House long upon this branch of the subject, because it was so ably and fully discussed in the printed argument of Mr. Moore, which lies upon the tables of gentlemen, that he (Mr. V.) deemed it quite unnecessary to attempt to add much to the very cogent considerations that were urged in that very able paper. But he might be suspected of a want of confidence in this point, should he entirely omit to expatiate upon it. It has been urged, sir, that the sheriff has no judicial powers to perform at the board, according to the fair construction of the law of Kentucky. Sir, this is an entire mistake. According to my understanding of the law, he has very high and important duties to perform at the board. The law provides "that the persons entitled to suffrage shall, in presence of the said judges and sheriff, vote publicly, personally, and *viva voce*." The sheriff is understood to be the presiding officer at the elections, and it seems to be generally conceded by gentlemen from Kentucky that, when the judges disagree, the sheriff gives the casting vote. An elector has a right to vote upon the sheriff's personal knowledge of him, without the concurrence of the knowledge of the judges; the oath to be administered to the elector is declared to be "to remove the doubts of the sheriff or judges." The sheriff is to proclaim who is elected at the close of the election. He is to take the poll-books for the purpose of comparing them with those of other precincts and counties; and yet it is gravely and strenuously contended that the sheriff's presence at the polls can as well as not be dispensed with; that the law confers on the sheriff no judicial capacity; that the sheriff, or his deputy, can descend from the bench, mount his horse, and scour the country to rally voters for his favorite candidate; that he is a mere peace officer, and that he may, by way I suppose of keeping the peace, involve himself in political broils and quarrels out of doors, during the progress of the election; that he may resort to the conclusive argument of the sword-cane, by way of settling a political dispute in which he finds himself engaged; that he may be permitted to over-fatigue himself by over-exertion to rally voters for his friend, lie down and repose his head upon his saddle-bags in a remote corner of the room, and that all this is a satisfaction of the requirement of that portion of the law of Kentucky which declares "that the suffrages shall be taken in the presence of the sheriff and judges." If the House shall be prepared to say so, then there will indeed seem to be a disposition here to dispense with those safeguards which the laws and the constitution, for the wisest of purposes, have seen fit to plant around the right of suffrage.

But it has been urged, in excuse of the delinquency of Kennedy, the high sheriff, that his wife was sick, and that he was therefore obliged to go home. Then, I ask, where was Yantis, that deputy who, with Mr. Kennedy, had alternately acted as presiding officer? The depositions tell us where he was. He was riding through the country drumming up voters for Mr. Letcher. On Monday morning, then, sir, according to the argument of gentlemen who oppose the doctrines of the report of the majority of the committee, the sheriff is all-important and all-powerful. He can open the poll when he pleases, declare a vacancy in the office of the judges before ten o'clock, and not only manufacture, but get in motion the whole machinery of the election, but on Tuesday, when he is absent from his post, which the law has so emphatically assigned to him, his presence is not deemed at all necessary. Sir, it will not answer to make one law or one argument for Monday, and another for Tuesday; but gentlemen seem to find no difficulty or embarrassment in doing so.

And on what ground, sir, are these departures from the positive laws of a State attempted to be justified? Gentlemen in search for reasons to justify the high power which they now call upon this House to exercise—the power of nullifying and disregarding the exactions of a State law, made in pursuance of the constitution of the United States—tell us that the rights of the electors are above the law; that they are natural rights; that they are inalienable; and all these sublimated, though false notions, do they indeed seem to be influenced by, in a case where we have the most unerring lights to guide us. The gentleman from Ohio [Mr. HAMER] has triumphantly refuted the idea that the rights of the voter are above the law and the constitution, or that they belong to us in a state of nature. I am surprised, indeed, to hear such disorganizing doctrines urged on the floor of the House of Representatives, as have been put forth by gentlemen who oppose the report of the majority. I go, sir, for the right of suffrage to its fullest extent. I hold that every man is justly entitled to a vote who has any interest in good government, and that though the poor man may not have much property that looks to Government, to the laws, and to the makers of the laws, for protection, yet he has his life, his liberty, and his means of pursuing happiness, that call for governmental protection, and that he ought not to be disfranchised, because his is the hard fate of the poor. No, sir. I would freely accord to him the right of an equal voice in the selection of those whose duty it is to enact laws for the

rich and the poor, the high and the low, the noble and the ignoble; but, sir, I cannot yield to the idea that, high and invaluable as is this right of suffrage, it is a right above the laws and the constitution, and that, in order to give effect to it in a particular case, those laws and that constitution, which were designed to save it from savage licentiousness on the one hand, and aristocratic encroachment on the other, may be trampled under foot. No, sir. I go for the law and the constitution, whether they define the qualifications of the voter, or prescribe the manner in which this right shall be exercised; and I cannot here be persuaded either to jump over the constitution or crawl under the law, by the captivating doctrine, that the right of suffrage is paramount to the law and the constitution. No, sir. This right, inestimable as it is, is indeed the offspring of the social compact. If it were not, why all these qualifications and disqualifications in relation to the right of suffrage, with which the constitutions and laws of the several States are so replete? If this right of suffrage be one of our natural and inalienable rights, why, as the gentleman from Ohio has so pertinently asked, not extend it to females and slaves, and all classes and descriptions of persons? Why tell me, sir, that I must reside six months in a county, and a year in a State, before I can be permitted to exercise "this natural and inalienable right," if it is so far elevated above the laws and the constitution of my country? Rely upon it, Mr. Speaker, that gentlemen could not have apprehended the mischievous tendencies of their own doctrine, when they told us, in effect, that where the rights of the voter come in conflict with the laws and the constitution, we, in the fulness of our affection for the elective franchise, with most vain-glorious notions of undefined and undefinable, unlimited and illimitable equitable powers, can break through the sacred barriers of the law and the constitution, as if they were the merest cobwebs, interposed to obstruct the career of giants.

It has been said, sir, that the rights and the will of the voters in this case, at Lancaster, who voted before ten o'clock on the morning of the first day, during the absence of the sheriff, would be wholly defeated if we should adopt the rules for which the majority of the committee contend. Sir, this argument of possible and particular mischief, from an adherence to the laws and the constitution, is always a dangerous argument. It might as well be said, that, because the rains of heaven that refresh and fructify the earth sometimes destroy valuable lives, sweep away the most costly edifices, and desolate whole regions of country, therefore all refreshing showers might better be dispensed with. Every human invention and institution, sir, however salutary in its general effects, may work occasional and partial mischief. This appears to be an order of nature. Yes, sir; it is incident to the imperfection of human wisdom; but it must be remembered, sir, that partial evil is sometimes the parent, and sometimes the daughter, of general good; and that is indeed a weak and short-sighted philosophy that would repudiate a law or rule which is salutary in the main, because it may, by possibility, work occasional and partial injury.

But, sir, if we can fancy evils that may flow from the observance of the principles and rules for which the majority of the committee contend, can we not imagine some that may flow from the other doctrine? Is there not danger, most appalling danger in the doctrine, that, if the will of the voter is only expressed, it matters not through whom it is expressed; that the agents prescribed by law to secure the fair and orderly expression of the popular will may be dispensed with; that whether John or Richard be the agents of the law, or self-constituted agents, to receive the votes of freemen, is immaterial, so that the will of the voter is only expressed? Will not this lead, sir, to a perfect mobocracy? Sir, I had always supposed that all legal ends in civilized communities, and under free and constitutional Governments, were to be attained by lawful and constitutional means; and that it is better, far better, that the end should sometimes be lost than adopt the more than Vandal heresy, that the "end justifies the means."

Mr. Vanderpoel having concluded his remarks--

Mr. POPE, of Kentucky, rose, and addressed the Chair as follows:

Mr. Speaker: After the able and elaborate arguments submitted by the parties to this contest, by the majority and minority of the committee, and by other honorable gentlemen who have preceded me in the discussion, I cannot flatter myself with the belief that this House will be much interested with the views which I propose hastily to submit for its consideration.

Had this contest arisen between two gentlemen of another State than the one which I have the honor in part to represent on this floor, I should have forborne to trespass on the time, now so precious, of this House. But the deep interest which a portion of the citizens of Kentucky feel in the result of this controversy, and an earnest desire to vindicate successfully the conclusions of my judgment, will, I trust, be a sufficient apology for my participating in the discussion. I regret, however, that this necessity exists. I regret that the refusal of Mr. Letcher to comply with the proposition of Mr. Moore, to submit their respective claims again to the people, has imposed upon this House the disagreeable necessity of pronouncing a decision between them. Unpleasant, however, as that duty is, it must now be discharged, be the consequences what they may. And in discharging it, we should recollect that the country requires us to discard all feelings of a personal or party nature, and decide this case according to the constitution and laws of the land. It is by this standard the respective claims of those gentlemen are to be tested; and, if it be fairly done, no one has a right to complain.

But here, Mr. Speaker, I must protest against the effort which is made by honorable gentlemen to convince the country that a struggle is made to force the minority candidate into a seat in this House. What justification exists for such a course? Has not a committee, composed of gentlemen selected for their capacity and probity, been industriously engaged, during this session, in ascertaining who is the rightful representative of the 5th congressional district of Kentucky? and have not five out of seven reported that Thomas P. Moore has received a majority of all the legal votes polled in that district; and that, too, without rejecting any votes but such as are spurious and illegal. This being the case, what authority exists for the assertion that there is an effort made to force a minority candidate into this House? Have not five honorable gentlemen of that committee informed us in their report that, after deducting bad votes given on both sides, (without excluding the votes given before 10 o'clock of the first day, and those given on the second day, in the absence of the sheriff,) Mr. Letcher is left in a minority? The committee has been long, and patiently, and sedulously engaged in this duty. The presumption is, that the five are correct, and the two are incorrect in their respective conclusions; and I would place more confidence in their opinions than in those of other members who have not had an opportunity to give to this subject the same sifting, searching, scrutinizing investigation.

I have examined this case, Mr. Speaker, with much care, and am inclined to the opinion that Mr. Moore is the rightful representative of the fifth congressional district in the State of Kentucky. In truth, I think even the majority of the committee have done him injustice. In my humble opinion, they have refused to reject suffrages given to Mr. Letcher, which the constitution and the law, reason and propriety, required should be excluded. I

will not detain the House to assign repeated individual instances, but will stop to refer to three votes given to Mr. Letcher which the committee held to be good. These votes were given by persons who were deaf and dumb. It may be said that it is hard to add civil to natural disqualification—that it is unjust to strip them of the elective franchise. Sir, no man feels a livelier sympathy for such unfortunate beings than myself. No one would go farther to add to their comfort and happiness, or to illume the changeless midnight of their mind than myself: but neither compassion nor sympathy can alter the constitution and the law. I consider myself sworn to test this question by a legal touchstone. I feel bound to inquire, not what I could wish, but what is the law. Both the constitution and the law of Kentucky imperatively declare that the persons entitled to suffrage shall vote "personally, publicly, and *viva voce.*" Although a previous clause of the constitution extends that great privilege to all free male persons above the age of twenty-one years, except Indians, negroes, and mulattoes, yet a subsequent clause of the same instrument restricts this right, by prescribing the manner in which it shall be exercised. This latter clause is of equal if not of superior obligation with the first; and if it shall turn out that one who claims the right of an elector cannot vote *viva voce,* he is not entitled to it. Now, I would respectfully inquire, if it is not physically impossible for one deaf and dumb to vote publicly, and "*viva voce.*" He has no living voice; his lips are sealed in silence; he is mute as the voiceless grave; he cannot comply with the constitutional requisition of voting *viva voce.* It is his misfortune, not my fault. If fault it be, it is in the constitution. He cannot vote by ballot, nor by proxy. Both of these modes are interdicted. The only remaining one is a "*viva voce*" vote, and that it is physically impossible for him to give.

But, Mr. Speaker, I am not left to the unsupported conclusions of my own mind on this subject. One of my honorable colleagues, [Mr. HARDIN,] while a member of the Senate of Kentucky, presented to that body a report in a case of contested election between Williams and Mason. From that report I extract the following decision: "James Yocum voted for Williams, decided by a majority of the committee to be illegal, because he was deaf and dumb, although proved to be intelligent. The committee was partly influenced by some proof tending to show he was overreached." Now, sir, although the committee were partly influenced by some proof tending to show he was overreached, yet they expressly declare that they considered it illegal because given by one who was deaf and dumb.

Mr. Speaker, I agree with my honorable colleague that this case should be decided according to the constitution and law of Kentucky, and the local expositions of both. And I respectfully inquire of honorable gentlemen if I have not proved from the constitution and law of Kentucky, and the legislative exposition just cited, that a person who is deaf and dumb cannot vote in Kentucky. What more is wanted, sir. Is it necessary to show that it is proper and expedient that the constitution should be adhered to? Is it necessary to say to honorable gentlemen that if this feature of the constitution be wrong, let it be altered by amendment? Can gentlemen see no motive for this constitutional disqualification? May it not have been intended to prevent fraud and overreaching? Sir, it has been since the constitution of Kentucky was formed that the means of educating the deaf and dumb have been discovered or applied. Take one who can neither read nor write, how is he to be sworn? Are you to find an interpreter and swear him correctly to unfold the hidden purpose and meaning of the voter? If so, this difficulty presents itself: in case of perjury, who is to be prosecuted, the voter or interpreter? Who is to be the witness? Could the former be convicted on the testimony of the latter? Or the latter on the mute and unintelligible signs of the former? But, sir, I will pursue this branch of the subject no farther. I will leave it to the honorable gentleman to say whether one who is thus bereft of such important natural organs can be a qualified voter in Kentucky until the laws and constitution of the State are altered or amended.

I will now proceed, Mr. Speaker, to inquire whether the majority of the committee were correct in excluding from the count the votes of ten theological students at Danville, Kentucky, nine of whom voted for Letcher and one for Moore. On this subject, Mr. Speaker, I differ, *toto cœlo,* from the honorable gentleman from Pennsylvania, [Mr. BINNEY.] He thinks those students derived a right to vote at Danville from that clause in the constitution of Kentucky which provides that "in all elections for representatives, every free male citizen (negroes, mulattoes, and Indians excepted) who at the time being hath attained to the age of twenty-one years, and resided in the State two years, or the county or town in which he offers to vote, one year next preceding the election, shall enjoy the right of an elector. But no person shall be entitled to vote except in the county or town in which he may actually reside at the time of the election." In settling this point correctly, we must first ascertain the constitutional meaning of the word *residence.* According to my understanding, it is not a mere continuous breathing for one or two years preceding an election at the place where it is held; but it must mean his settlement—his home. He must not have gone there with the view of leaving the place as soon as he accomplished a fixed and isolated purpose, such as obtaining a collegiate education, but he must have gone there "*animo manendi*"—with a view of settling there; or, having changed his purpose, he must be, in the broadest sense, a citizen of the place. He must consider it his actual home, and not a temporary residence or habitation, to be abandoned as soon as he accomplished the object for which he went. Let me inquire of honorable gentlemen from Connecticut or Massachusetts if they would consider a Kentuckian who had gone to Cambridge or Yale College to obtain an education, a citizen of either of those States, and as such entitled to participate in their elections. Let me inquire of my honorable colleagues if they would consider a citizen of Virginia, who had gone to Kentucky with the view of investigating land titles and claims, and in consequence thereof had remained in the State continuously for two years, a citizen of Kentucky, and as such entitled to vote at our elections. Certainly not, sir. Yet, if the signification which gentlemen wish to attach to the word *residence* be correct, he would be entitled to vote. Sir, the meaning which gentlemen propose to give to that word is not a popular meaning; nor is it a technical or legal meaning, as I will now proceed to show. In Coxe's Digest, title Domicil, the following principle is laid down:

"In questions on this subject, the principal point to be considered is the *animus manendi;* and courts are to devise such reasonable rules of evidence as may establish the fact of intention. If it sufficiently appear that the intention of removing was to make a permanent settlement, or for an indefinite time, the right of domicil is acquired by a residence of even a few days.

"An inhabitant or resident is a person coming into a place with an intention to establish his domicil or permanent residence, and, in consequence, actually resides. The time is not so essential as the intent, executed by making or beginning an actual esfablishment, though it is abandoned in a longer or shorter period."

Vattel also says, that the "domicil is the habitation fixed in any place with an intention of always staying there." Thus we see, sir, that time is not so essential as intent—and that a man cannot be esteemed a citizen or

resident of a county or State if he goes to either with the intent of abandoning it after having accomplished a particular object; and has such intent at the time he claims a right to vote. But, sir, one of my honorable colleagues [Mr. Hardin] has asserted that this case should be decided according to the constitution and law of Kentucky, and the expositions, judicial and legislative, there given to both. Sir, I agree to this, and will refer my colleague to the case of Easton *vs.* Rucker, decided by the appellate court in that State, where the following language is held:

"A citizen of Kentucky may have a temporary residence out of the State, and, if that be the case, it does not follow that the federal court has jurisdiction of his controversy with a resident citizen of the State; for such temporary residence will not divest him of his character, or his rights, as a citizen of the State.

"The term *non-resident* has frequently occurred in the decisions of the court of appeals of Kentucky, on questions touching the jurisdiction of the general court; and it has always been considered that the meaning was, one who had his domicil out of the State, and not one who had a simple habitation in Kentucky."

I would now inquire of my colleague if a man who is not a citizen of Kentucky, has a right to vote in that State? To this he must respond in the negative. But in the passage just quoted, the court say, "a citizen of Kentucky may have a temporary residence out of the State," and yet not lose his rights or character as a citizen. If, then, he does not lose his rights and character as a citizen by a temporary non-residence, say of two years, how is it possible a man can acquire those rights by a corresponding mere residence of two years, when he takes up a temporary habitation in the State without the view of remaining, or making a home there? But I will refer the honorable gentleman to his own opinions, as found in the case of Williams and Mason, before cited. From the report, drawn up by my colleague, I make the following extract: "Stephen Ellison, alleged to have removed to Texas, was gone there five years, but a change of residence not proven to the satisfaction of a majority of the committee."

Now, if Ellison was held a good voter, although absent five years, because it was not satisfactorily proved that he had intended to change his residence, how is it possible that the votes of the Danville students can be adjudged good, when it is positively proved that they went to Danville for the sole purpose of obtaining a theological education, and did not intend to remain there?

I have been informed of another case, where the principle for which I contend was distinctly asserted and recognised. Samuel H. Woodson, Esq. was returned a member of the Legislature of Kentucky, from Jessamine county. His right to the seat was contested on the ground that he had not resided in the county of Jessamine for the whole year next before the election, but had resided part of the time in Fayette county. The lower House of the Legislature, considering Jessamine to be the place of his actual residence, very properly decided that he was entitled to a seat; yet if they had settled it according to the principles now advanced on this floor, he would have lost his seat.

After these references to the constitution and laws of Kentucky, and the decisions and expositions, legislative and judicial, of the State, how can it be seriously contended, Mr. Speaker, that the students of theology at Danville, who had gone there from other counties than Mercer, and other States than Kentucky, are qualified voters? Let me inquire of honorable gentlemen, if one of those students had returned to his home, or to that of his father or mother, and had claimed the right to vote there, if he would not have a clear right to exercise that privilege? Could, or would, a judge of election dare refuse him on the ground that he had been absent in the pursuit of a collegiate or clerical education? Certainly not, sir. It would be his proper place of voting. Yet a man cannot have a right to vote in two counties at the same time. He cannot place himself in such a position as to have the option of selecting the county in which he will exercise the right of suffrage. I may be told that these students performed militia duty--that they paid town tax in Danville. This may be so, sir. But it does not, *ipso facto*, make them citizens of Mercer, or prove they are such. These are duties to which men are often unrighteously and illegally subjected, and it may have been so in the instances alluded to. It does not follow, sir, that, because a man is subjected to some of the duties of a citizen, he therefore has the rights of a voter. Because, if that were the case, every man liable to jury service would be entitled to vote, and we all know that the very moment a man moves into Kentucky, he can be called on to serve on a jury--ay, sir, and be compelled to muster, and list his property for taxation. It is worthy of remark here, Mr. Speaker, that one of those students left college during the election, and went to the county in which his father resided, and voted there for Mr. Letcher. The minority hold this to be a good vote. Now, sir, how can he be entitled to vote in the county where his father lived, and at Danville also? I confess I cannot understand it, and will leave it to the ingenuity of other gentlemen to determine. I therefore hold, sir, that the votes given by those students were very properly rejected by the majority of the committee. There may be some inconvenience in adhering to the law in this instance, but there is much more in abandoning it; for I can very readily perceive that if students at colleges are allowed to vote in counties where they may go or be sent for education, you may place, and will sometimes place, the rights and interests and voice of a majority of the county entirely under their direction and control.

I have now arrived, Mr. Speaker, at points in this case which, I confess, I approach with much reluctance and great delicacy. I would have preferred to avoid a decision of them. But inasmuch as one of the minority of the committee, by the amendments he has proposed to the first resolution reported by the committee, has placed this House in such a position that a decision thereon seems inevitable, I must claim the further indulgence of the House, while I proceed to show the reasons for the vote I am compelled to give. The question now to be discussed is, Shall the votes given at Lancaster, in Garrard county, on the first day of the election, before the arrival of the judge appointed by the county court, and also those given on the second day, in the absence of the sheriff, be rejected by this House? Sir, it is not necessary for me to say whether I would have contested an election on this ground. It is useless for me to repeat the wish that Mr. Letcher had consented to refer the case again to the people, when it was proposed by Mr. Moore. It is enough for me that this case must now be decided according to the constitution and the laws. If the constitution and the laws are wrong, let them be changed. But, so long as they exist as they are, let them be enforced. Nor let there be a hue and cry raised that the voice of a majority of the people is about to be defeated by this House. There may be no foundation for such useless clamor. A majority of the committee (a committee distinguished for its intelligence and probity) have informed us that Mr. Moore has received a sufficient number of votes to elect him, without rejecting the votes now under consideration. In common courtesy, we should confide in the correctness of their report, until it is shown to be erroneous. It may not, therefore, violate the rights of Mr. Letcher, or the higher rights of the people, to settle this question at this time. It may subserve a valuable purpose hereafter. I shall, therefore, without further delay, proceed to discuss this point; and, first, as to the votes given on the second

day, in the absence of the sheriff. That part of our law which refers more immediately to this point, reads thus: "The persons entitled to suffrage shall, in the presence of said judges and sheriff, vote personally, and publicly, *viva voce.*" Upon the authority of this clause of the law, the majority of the committee rejected thirty-two votes given to Mr. Letcher, and thirteen given to Mr. Moore. They did so on the ground that the law required the electors to vote in the presence of the sheriff. They considered that the requisitions of the law could not be dispensed with. Although, Mr. Speaker, strictly viewed, it may have been the duty of the judges to have abstained from receiving votes until the arrival of a deputy sheriff to supply the place of the sheriff, who was necessarily absent on account of the illness of his wife, yet, inasmuch as this omission was the result of a casualty unforeseen, and over which human agency could have no control, I am inclined to vote against the majority of the committee in this particular. This proceeds from an unfeigned desire to effectuate the popular will, whenever it can be done consistently with the law and the constitution. But, in relation to the votes given on the first day, before ten o'clock, in the absence of the judge appointed by the county court, I entertain a very different opinion. What, sir, is the language of the law on this subject? It is this: "The justices of the county court shall, at their court next preceding the first Monday in August in every year, appoint two of their own body as judges of the election then next ensuing, and also a proper person to act as clerk."

"And in case the county court shall fail to make such appointments, or the persons appointed, or any of them, fail to attend, the sheriff shall, immediately preceding every election, appoint proper persons to act in their stead."

"The sheriff, or other presiding officer shall, on the day of every election, open the polls by ten o'clock in the morning."

"The judges of the election and clerk, before they proceed to the execution of their duty, shall take the oath prescribed by the constitution. They shall attend to the receiving the votes until the election is completed, and a fair statement make of the whole amount thereof."

In pursuance of this law, the county court of Garrard county appointed Isaac Marksbury and William Wheeler to act as judges of the election. Marksbury became a candidate for the Legislature, and declined serving as a judge of the election. But did Wheeler decline serving? or, in the words of the law, did he "fail to attend?" For it will be remembered that it is only in case of a "failure to attend," that the sheriff has a right to appoint a substitute judge. The contingency must happen before the power intrusted to the sheriff could be exerted. The question arises, When can this contingency be said to happen? I answer, at ten o'clock, and not before. I maintain that, if the judges attend by ten o'clock, they have not failed to attend to hold the election as required by the provisions of the statute just cited. And, as a necessary consequence of this position, I maintain further that, if the appointees of the county court do attend "by ten o'clock," they have a right to commence and proceed with the election, and that the previous acts of the appointees of the sheriff are necessarily invalid and void.

In examining the election laws of Kentucky, Mr. Speaker, it can be easily perceived that the Legislature were unwilling to intrust this important and formidable power to the sheriff, if it could be conveniently avoided. With this feeling, they made it the duty of the county court to appoint two of their own body to officiate as judges of the election, and, with evident propriety, conferred upon the sheriff the power of appointing only in case of absolute necessity--only in the event that the county court should fail to make an appointment, or in case their appointees should fail to attend. Now, sir, let me inquire at what time the judges can be said to have failed to attend? Some point of time for their attendance must be assumed. Shall it be after midnight of the previous day, or at daybreak, or sunrise, or six, seven, or eight o'clock of the first morning of the election, or shall it be at ten o'clock? Can it be contended, sir, that a sheriff shall have the dangerous power of proceeding to the court-house at sunrise or sooner--that he shall then decide that the appointees of the county court have "failed to attend," and, in violation of all law, and reason, and justice, foist into authority appointees of his own, in contempt and disregard of the previous appointments of the county court? Shall he have the power thus to create a vacancy that he may fill it? Shall the judges appointed by the county court be compelled "to camp upon the ground" to avoid a surprise and ouster by the sheriff? Shall they be compelled, at the "crowing of the cock," to abandon their chambers, speed with precipitation to the court-house, take their seats, and *there* remain to prevent the sheriff from declaring that they have failed to attend? Or shall they have the right to attend at the usual time, and in the usual manner, to conduct a legal and regular election? Shall the sheriff have the dangerous right of declaring a vacancy at any hour of the morning, and to fill it with the connexions, partisans, or instruments of himself, or a favorite candidate? Or shall he be compelled to wait until ten o'clock to see whether or not the legitimate judges have failed to attend? Sir, the latter course is obviously the proper one. There is no danger, and can be none, in adopting it. It will afford ample time to conduct and complete a full and fair election. But, in the former course, I can see serious and numerous evils. It is pregnant with flagrant and crying injustice. It can be prostituted to subserve the vilest purposes. It will open a field where can be sown, with broad cast, seeds of the rankest corruption. Let me not be told, sir, that this mode of reasoning is founded upon the presumption that some sheriffs are dishonest. I do not mean to fulminate such a charge against them. So far as they are known to me, they are, in the general, men of integrity and honor. But I do mean to say, that--which I have sorely felt--sheriffs have sometimes betted large sums on the result of elections; sufficient, for aught I know, to stimulate their passions, poison their judgment, and warp their sense of duty. Now, sir, if in such a case, the sheriff should exercise the monstrous power with which it is contended the law has invested him, what will become of the boasted purity of elections, and the sovereign voice of the people?

But, Mr. Speaker, suppose that honorable gentlemen are correct in the proposition that the sheriff had a legal right to appoint Grant before ten o'clock--then I contend that he was a judge for the whole election, and Wheeler had no right to take his seat as judge at ten o'clock, and thereby eject Grant. If Grant was a legal judge, Wheeler was not; and if the latter was, the former was not. Gentlemen may take either horn of the dilemma they please; either the votes taken before Grant were illegally taken, or those taken before Wheeler were. Why? Because the law does not contemplate the appointment of two sets of judges--the one appointed by the county court and the other by the sheriff, to act alternately in the progress of the election. The law says, the judges "shall attend to the receiving the votes until the election is completed, and a fair statement make of the whole amount thereof." Did grant do this, or did Wheeler do it? Neither did, sir. Yet the law is imperative that it shall be done. How are the votes certified, sir? Does Grant certify to the correctness of the votes taken before him? No, sir; Wheeler does it. He undertakes to certify, not only to the votes taken before himself, but to those taken before Grant also. It can be hardly necessary to say, sir, that the proceedings of the sheriff, in making this appointment, were a palpable departure from the necessary and substantial forms and requisitions of the law.

But, Mr. Speaker, it is not even pretended that Grant was appointed to act as a judge during the whole election. It is positively proved that he was appointed to act until Wheeler arrived, and no longer. And when Wheeler did arrive, he took his seat as a judge; not by virtue of an appointment by the sheriff, but by virtue of his appointment by the county court. Sir, we are not left in the dark as to the sheriff's understanding of this law. It is proved by Judge Boyle that this sheriff was once a candidate for the Legislature in opposition to him, (Boyle,) and that the former successfully protested against the opening of the polls before ten o'clock. We also have the understanding of several of the citizens on this subject; one, or perhaps more, of whom advised the sheriff not to open the polls before Wheeler arrived, and informed him that Wheeler would certainly arrive in time. Yet the sheriff disregarded all this, and opened the polls, although Wheeler did arrive in time, and commenced the duties assigned him by the county court.

And now, Mr. Speaker, I must be allowed to dissent from an opinion advanced by two of my colleagues, [Mr. HARDIN and Mr. MARSHALL.] They both stated, in substance, that the right to vote was derived from the constitution of Kentucky--that the act of the Legislature was passed to facilitate that right, and not to restrict it--that the Legislature could not, therefore, restrict the right to vote to ten o'clock of Monday, inasmuch as the constitution had allowed the whole day for carrying on the election.

Have my honorable colleagues overlooked the fact that the right to vote for members of this House is derived, not from the constitution of Kentucky, but from the constitution of the United States? And that that instrument gives to the Legislature, and not to the constitution, or those who framed it, the right to prescribe the time, place, and manner of voting. The fourth section of the first article of the federal constitution says: "The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

Thus we see that the position of the gentlemen is expressly repudiated by the constitution itself, and will, I am sensible, upon a moment's reflection, be abandoned by themselves as wholly untenable. I therefore maintain that the Legislature of Kentucky have a right, under authority from the federal constitution, to restrict the time of voting for members of the lower House of Congress, within any hours of any day, so long as the Congress shall permit it; that it is no violation of the constitution of Kentucky so to do; and that if this power be abused, the only corrective is to be found in the national Legislature.

In attacking the report of a majority of the committee, my colleague [Mr. MARSHALL] undertakes to define an election: he says that an election is the result of the choice of a majority of qualified voters. Sir, this is an incorrect definition of an election. I take it to be the "will of a majority of qualified voters, expressed according to law." If it be not expressed "according to law," it is no election. For example, if votes are given on a day, at a place, and in a manner not authorized by law, it is no election. And no matter how honestly the public will may be expressed, if it is not done in conformity with the substantial and necessary requirements of the law, it cannot be carried into effect without a violation of the law: and although the honorable gentleman from Pennsylvania [Mr. BINNEY] is correct in stating that the time, place, and manner of holding elections constitute no part of the qualification of the electors, yet, if the gentleman will recur to the law, he will find that it does constitute a part of the qualification of the votes, and that it is as necessary that there should be an officer qualified to receive a vote, as it is that there should be an elector qualified to give one. Sir, gentlemen have attempted to expose the fallacy of these positions by stating extreme cases. I do not recollect them all, but one put by my colleague [Mr. HARDIN] just occurs to me. He inquires, if a judgment of a court would be void if pronounced by the judge in the casual absence of the sheriff from the court-house. Assuredly it would not. But let me state a more apposite case. Would not such judgment be void if pronounced by a judge not appointed and commissioned as required by law? Certainly it would. But, Mr. Speaker, I will detain the House no longer. It was painful to me to have troubled it at all. I should not have done so, if it could have been safely avoided. I did not wish either my motives, my views, or my votes to be misconstrued. I was sensible that the welkin would be made to ring with denunciations of those who think and vote as I shall on these questions. We have been told already that the public will has been violated--that an effort was made to stifle the public voice--that we were adhering to forms, to shadows, and not to substance. Sir, no man entertains a more profound veneration for the sacred right of election than myself. No man would bow sooner than I would to the will of the people. I would ever defer to their suffrages, but then they must be genuine, they must not be spurious. I will ever carry into effect the fiat of popular will, whenever it is expressed according to the constitution and laws of my country. More than this I am satisfied an enlightened people will not require me to do. They have sufficient intelligence to know that those who framed our constitution and laws, designed them for the protection and security of our liberties. That it is necessary to adhere to them--that these apparent restrictions on the enjoyment of the elective franchise were thrown around it as muniments for its protection. And I have no doubt they will believe as I do, that the invaluable privilege is more endangered by an abandonment and disregard of those substantial forms and requirements which the constitution and the laws have imposed, than by a proper and steady adherence to them. Under these impressions, Mr. Speaker, I shall vote for Mr. Moore to take his seat, unless, in the course of the discussion, I shall be satisfied he is not entitled to it.

When Mr. POPE had concluded,

Mr. DAVIS, of Kentucky, rose and said:

Mr. Speaker: I have been a long time in a bad state of health; I am now feeble, and my voice is weak. I had intended to give a silent vote; but allusion has been so often made, in the progress of this debate, to the laws of Kentucky and her members here, that, as one belonging to her delegation, I feel it an indispensable duty devolving on me, to submit a few remarks. I am not in the habit of playing the orator, and least of all at this time; and what I intend to say will be more in the character of an explanation than a speech.

So much excitement has been produced in the State of Kentucky, about this election, that it may be thought by some the feelings of the people had been communicated to the members of the State sitting here, and that they would act more from the impulse of feeling than the impartial dictates of a cool and deliberate judgment. To quiet these unjust suspicions, if any such should be entertained, is the leading motive which induces me to rise and give the reasons for the vote which I am now about to give; and what I say will be more for my own vindication than to convince the members of this House.

Mr. Speaker, many gentlemen who have given their views at large upon the subject, occupy, indeed, a narrow ground; they seem to think that this contest is a question alone between Mr. Moore and Mr. Letcher, and that they are the only persons interested in the matter. But I think the great questions are the rights of the people of the fifth congressional district of Kentucky. What is their will, and who have they said shall represent them? They are the individuals more vitally interested, and to

them should our views be directed, as the polar-star to guide us to a just conclusion. The elective system was instituted for the benefit of the people themselves, not for the benefit of the representative; and on this great principle alone can we arrive at a correct result in our deliberations. If we had only to give the preference to a friend, we could then indulge in feeling. If we had only to make a choice of one for talents, worth, experience, and public virtue, our decisions would be quite immaterial, as both of those individuals possess these qualities in a very eminent degree. But we have higher duties to perform: acting, as it were, as a great tribunal, bound by mighty obligations to render to freemen an impartial verdict, those who are blessed with the happiness of a Government which secures to them a free choice of public servants; and then, I might say, we are bound by an obligation paramount to that, again, to do strict, unflinching justice to ourselves.

Mr. Speaker, I was sorry, very sorry, some short time ago, when the gentleman from Georgia, [Mr. WILDE,] in the course of his remarks, made use of some expressions conveying the idea that this contested election would be decided by this House on party grounds. This is an accusation unworthy of the gentleman; and I, for one, repel the charge with feelings of perfect indignation. I do not wish to express myself so warmly as to give offence; but, in justice to myself and the House, I must say that such remarks were wholly unnecessary, unjust, and uncalled for. The honorable gentleman should remember that we are now acting under the sanction of a most solemn oath; the eyes of the nation are now upon us; we have high trusts and important duties to perform; much is required at our hands, and I hope to God we will acquit ourselves as becomes the representatives of an enlightened and virtuous people. If, unfortunately, the charge shall become realized, and the question be decided not on principles of justice, but alone on party grounds, no one will regret it more than myself. I shall regard such an occurrence as a sure indication that the days of our republic are rapidly drawing to a close, and that virtue no longer dwells as the inmate of these walls. How would it look, (I am sure not very well,) on a call of the yeas and nays, to see all of a certain class of politicians vote for Mr. Moore, and all of the other class vote for Mr. Letcher? A political line thus to be drawn, instead of acts recording justice, duty, honor, would be a spectacle indeed, *prima facie* evidence, and cause the world to doubt. If men can reconcile it to their consciences, a little intermixture, in order to quell these otherwise just suspicions, would be much desired. I am sure when I say no member of this House will act so corruptly as to give his vote alone on party grounds, no one will avow it—none dare do so. The gentleman must readily see the impropriety of his insinuations; but, perhaps, there may be some excuse for him. I understand that he is a man of literature and taste; and we must suppose, when he introduced the name of Sir Horace Walpole, it was only one of his classical allusions—nothing more than the effects of fancy and the overflowing of the imagination, which is better than the overflowing of the gall; and, from the smile which seemed to play upon his countenance at the time, he could not intend to offer any disrespect to the House, or wound the feelings of any member here. I therefore forgive him, and hope that every other member will do the same.

When this subject was first brought before us, I looked into the constitution, which declares that each House shall be the judge of the election returns and qualifications of its own members; and, being myself a new member, I thought, from the power given to the House by the constitution, that the only inquiry would be—has the election been conducted fairly and fully, and which of the contending parties has the voice of a majority of the qualified voters of the district? But it is now contended that this is not to be the rule of decision; that we must resort to a strict construction of all the forms of the laws of Kentucky, prescribing the manner of elections; that we must now go into the quibbles of lawyers, technicalities, and hair-splitting distinctions, and substitute form for substance, at the sacrifice of justice. Yes, I say it is gravely contended that we must strictly follow every unnecessary form contained in the election laws, even at the expense of justice; strict construction must be followed down to the very letter. What says the gentleman from Georgia? [Mr. JONES.] 1st. The manner of holding the election must be strictly complied with. 2d. The forms prescribed by law are as necessary to be observed as the qualifications of voters; and the one can as well be dispensed with as the other. 3d. The election in Garrard county, in part, was not conducted in a legal manner; and, to that extent, the votes given are illegal, and cannot be counted. The gentleman from Ohio, [Mr. HAMER,] also, says that, if the election is not conducted according to the forms prescribed by law, the election is absolutely void. These gentlemen were on the committee of investigation, and sanctioned the majority report, which declares that Mr. Moore is entitled to the seat. The House is now called upon to give by its decision a construction to the election laws of Kentucky, which, I hope, will be done according to those sound principles which will fairly meet the justice of the case. As it is contended that we must be governed by legal rules, and try the question involved as if it were in a court of law, permit me, in the first place, to call the attention of the House to a writer whose authority is universal—I mean Sir William Blackstone—who says there are two modes of construing statutes—that is, liberally and strictly. He says statutes penal in their character are to have a strict construction, and those to prevent frauds a liberal one. Now, by which of these modes is an election law to be construed? Certainly not as a penal statute. You would not try a voter as you would a criminal, or scrutinize the forms for listing votes as you would a venire panel, but give such liberal construction as would secure the elective franchise and the liberties of the people; and I am sure no candid man, on mature reflection, will contend for a different doctrine, so repugnant to justice, reason, and the law itself. This is a view of the subject which I dislike. I am very unwilling to be driven to the necessity of presenting a legal argument to the House. I think we can subserve the principles of justice on a broader scale; but, since gentlemen urge me to the task, I cannot avoid it. Cases have been cited of decisions heretofore made on many contested elections, coming from other States; they relate particularly to the statutes of those States, and can form no precedent for the contest now before us, as has been clearly shown by my worthy colleague, [Mr. MARSHALL.] It is unnecessary that I should occupy the same ground which has been so fully and ably discussed. I will only add that this is a new case, and the first to be settled from the State of Kentucky; and the first construction is now to be given to the election laws, by the decision of this House.

The gentleman from Georgia, [Mr. JONES,] in his labored speech, contended most strenuously for strict construction, which, from the authority I have quoted, cannot be sustained on any principle of law or reason. But what is the doctrine of the gentleman himself, as contained in this very majority report which I now hold in my hand? I will read a passage:

"Several persons were objected to by Mr. Moore because they were deaf and dumb. By the constitution of Kentucky, in all elections by the people, &c. the votes shall be personally and publicly given, *viva voce*. Mr. Morehead, David Arnett, and John Withers, voted for Mr. Letcher, and were proved to be deaf and dumb, but

that they were intelligent, and could read and write. The objection was urged upon the constitutional requisition that all votes shall be given *viva voce*, and that it was physically impossible for them to comply with it. Upon the letter of the constitution, and the authority of the cases of Williams and Mason, decided in the Senate of Kentucky, a copy of which, marked D, is herewith presented, when James Yocum, a voter, was excluded because he was deaf and dumb, the committee were at first disposed to sustain the objection. Subsequent reflection, however, induced them to give the constitution of Kentucky a more liberal construction, and the votes were retained."

The gentleman's speech is for strict construction, and his report for liberal construction; and which shall we take for our guide? the printed sentiment, or the verbal declaration; the opinion conceived, formed, and matured, perhaps over the midnight candle, or that spoken here in the heat of argument, in the zeal of debate, under the influence of a heated moment, and perhaps in the presence of Mr. Moore and his friends? I say which opinion of the gentleman shall we follow? Certainly that contained in the printed document, and more particularly as it contains the thoughts, as he says, of subsequent reflection, of which I have no doubt, and which must be the best. The gentleman at first thought that the deaf and dumb could not vote, but his reflections afterwards taught him better; and, I suppose, from this self-same rule, since he made his speech, many of the positions which he took in argument are found to be, on subsequent reflection, flimsy, false, and wholly untenable. I beg no boon—let the gentleman be not surprised. I must contend that it is fair according to the laws of debate, when my adversary assumes two positions, inconsistent, and wholly at war with each other, I have the election which ground to assume. I, therefore, take the printed report, and shall hold him to the choice. If, then, according to every legal principle and the gentleman's own admission, we give a fair and liberal construction to the constitution and election laws of Kentucky, the whole of his fine-spun and labored argument must fall to the ground; the foundation being gone, the whole superstructure must tumble into ruins, leaving only the rights of the deaf and dumb protected from the wreck. Shall it be contended that this liberal principle can only apply to the person of the voter, and not to the forms of holding an election? Certainly not.

If the rule be good in the one case, *a fortiori* will it be in the other; and more particularly when so many duties of the ministerial officers are to be performed merely directory in their character, such as advertising one month previously to the time and place, crying the polls in the court-house yard, and many others, which, according to the arguments of gentlemen, must be strictly complied with in every particular, or the election will be void. About the deaf and dumb I perfectly agree with the committee. If they had been as correct in other views we should not have so widely differed. Yes, I say, I heartily agree with them, as to the legality of the votes of this unfortunate class of our citizens, and believe the committee will be sustained by this House, and the good sense of the nation. But, to my surprise, my worthy colleague [Mr. Pope] contends against the legality of the votes of those unfortunate individuals. I am glad to find that he is the only member in this House who has contended for such a doctrine; he stands alone, and I think I am an overmatch for one competitor, when backed by so many gentlemen who act with him on the other questions. He says that he has a high authority, a decision made in the Senate of Kentucky, in the case of Williams and Mason. I am well acquainted with that case; it was a contest between individuals of Montgomery county, the place of my residence. I was also a candidate at the same time, running on the same ticket with Williams, he for the Senate, and Mr. Gist and myself, for the House of Representatives. It also happened that Gist contested the election of a competitor running on the other ticket; the two contests were going on in the Legislature of Kentucky at the same time, and on the same votes, and the committee of the House of Representatives decided that the vote of the same James Yocum, the dumb man, was good and legally taken. I do not make this statement as evidence to the House, as I have not the report itself to offer; I do it for myself, such being my recollection of the facts. The report which the gentleman refers to, when examined, shows that the committee were partly influenced under a belief that Yocum had been overreached. The fact is, that Yocum continued to vote in Montgomery county, at elections, until the poor fellow died of cholera, and his right to vote, and some of his brothers, also dumb, was never doubted or questioned by any body in our county. But the gentleman relies upon the case which he has referred to, and the *viva voce* words of the constitution. If the decision has been given as he contends, I should suppose the decision in the case of Gist and his competitor would be of equal authority, and the known practice and understanding of the citizens of Kentucky upon the right of suffrage, would destroy his precedent; but, in the constitutional point of view, he has clearly not done justice to the subject. What are the qualifications of voters as declared by the constitution? "Art. 2. Sec. 8. In all elections for representatives, every free male citizen, (negroes, mulattoes, and Indians excepted,) who, at the time being, hath attained to the age of twenty-one years, and resided in the State two years, or the county or town in which he offers to vote, one year, next preceding the election, shall enjoy the right of an elector." Now, clearly, according to this clause, a dumb man, having these requisites, is a legal voter, and has the right to vote. Now, can it be supposed that the right is required to be exercised in an impossible manner, or not at all. This would be an absurdity in terms, an outrage to the common understanding of mankind, the justice of the case, and defeat the intention of the very framers of the constitution, who evidently only intended by that clause to change the mode of the ballot or ticket system, which, at the time of the adoption of the constitution, was practised by many of the States. Nothing is seen in the constitution showing any intention to exclude the deaf and dumb. Those in convention would never have sanctioned a doctrine calculated to cut off from the right of suffrage, an unfortunate class of our fellow-citizens, who, at all times, have been considered competent witnesses in a court of justice. But the gentleman says a dumb man cannot be a witness. I deny such to be the law. Not a witness! he has no authority in the books for the assertion. Suppose a murder had been committed in the presence of one of this description, must the offender go unpunished, because the person present could not speak, although intelligent, and, if you please, had received an education at the Danville college?

[Here Mr. Pope explained that he said a dumb man could not be sworn.]

Cannot be sworn! (said Mr. D.) What, does it require a man to speak to take an oath? No, sir; the clerk or other officer administers the oath and speaks. It is only necessary that the person taking the oath should understand the nature and obligations of the oath. Cannot be sworn! says the gentleman. Then he cannot be a witness. No man can be a witness without the oath required by the law, which makes no exception. The Hindoo can be a witness; if he cannot speak our language, he is sworn, and an interpreter is sworn; and such would be the case with the dumb, if they were uneducated and could not convey their ideas to the jury by writing. My colleague [Mr. Allan] now tells me that a man was condemned and executed last summer on the evidence of a dumb woman. The right of the dumb to vote has been

admitted by the committee opposed to Mr. Letcher's right to a seat. The gentleman from Georgia [Mr. JONES] says himself the votes of the deaf and dumb are good, but my friend from Louisville [Mr. POPE] says these votes are bad, which is only a difference, as there is between a little* lawyer and a big one. With regard to the opening of the polls in Garrard county, before ten o'clock on the first morning of the election, about which so much has been said, I can say, with justice to myself, so far as my knowledge extends, the practice in Kentucky has been to open the polls before that time, when convenience required it. Such is the case in my own county, and I am informed of the surrounding counties. The people and the officers who conduct elections, have put that construction upon the law and constitution relative to the subject, and the correctness of which I never doubted. But the gentleman from Georgia [Mr. JONES] contends that the House has nothing to do with the practice of Kentucky, but is to decide according to the laws and constitution of the State. Does he not know that the decisions of a State, made upon the construction to be given to its owns statutes, are always followed by the General Government, that whatever construction may be given by State tribunals upon statutes of that State, will be sustained and adopted in the Supreme Court of the United States? This is a principle which must be familiar to his mind, and one which it seems he did not notice. This is unpardonable. He is not a buck-eye—a term well understood in Kentucky—but evidently one of the ablest lawyers in this House. I cannot excuse him. I intend to deal with my friends in the opposition, both jointly and severally, with candor, freedom, and good humor; knowing that it would not do to lose my temper, being but a small man, hoping they will receive my remarks with the same good feeling with which they are given. All must admit that the practice of Kentucky in opening the polls before ten o'clock, has put a construction which must be followed by the House.

But it is contended that the sheriff has no power, before 10 o'clock, to open the polls, unless the judges appointed by the court do attend; and, if they should be absent, he cannot appoint others in their stead. What is the conssitution and law upon the subject? The constitution of the United States says, "the House of Representatives shall be composed of members chosen every second year, by the people of the several States." The manner of electing the representatives belongs to the States to fix and determine. The constitution of Kentucky, 3d section of the 2d article, provides that "representatives shall be chosen on the first Monday in August of each year, but the election shall continue three days, at the request of any candidate." It is then clear that the time when to commence, and length of time to continue an election, is fixed by the express provisions of the constitution; and, if so, equally clear that no law can be enacted by the Legislature of the State to alter or restrict the time. The first Monday in August is fixed, and the Legislature could not limit only part of the day for continuing the poll, inasmuch as such a law would be wholly unconstitutional and void, and not even binding on the ministerial officer, who is always bound to observe the constitution at his peril. If the Legislature could restrict the time to 10, or any other given hour, it could narrow the time to the shortest possible period, and not only defeat the spirit, but also the letter of the clause referred to. But it is contended that, if the whole day is meant to be given, the polls could be opened at 1 o'clock in the morning, or any other time after midnight. This construction is unreasonable, and not the evident meaning of the language used. Astronomers and almanac-makers speak of days as consisting of 24 hours; but in common parlance, in the common concerns of life, and ordinary transactions of business, day is distinguished from night, the one the time of light, the other the time of darkness. When we employ a laborer to do the work of a day, we do not mean that he is to work all night; and when we speak of a day in the business of life, we mean from the rising of the sun in the morning, until in the evening of its going down; and as an election is a business of great importance, no one can suppose it was ever intended that the people should assemble in the time of darkness to perform this sacred public duty. According to this mode of reasoning, the whole day is given by the constitution, from sun to sun, and cannot be restricted for the purpose of holding an election. The next inquiry is, how shall it be conducted? The law provides that "the justices of the several county courts shall, at their courts next preceding the first Monday in August, in every year, appoint two of their own body as judges of the election, then next ensuing; and also a proper person to act as clerk." And again, "in case the county court shall fail to make such appointments, or the persons appointed, or any of them, fail to attend, the sheriff shall, immediately preceding every election, appoint proper persons to act in their stead." And again, "the sheriff, or other presiding officer, shall, on the day of every election, open the polls by 10 o'clock in the morning." Now, the whole day being given by the constitution, as I think I have clearly shown, and it being the duty of the sheriff, or other officer, to open the polls, if the other officers do not attend, can the sheriff proceed to fill the place of the absentees? Beyond a doubt; for such are the very words of the law. But it is contended that, before he can open the polls, the justices appointed by the court must be in attendance. What is the law? It does not say that the opening of the polls shall be directed by the justices, or that they shall be present; that duty devolves not on them, but on the sheriff alone, or other presiding officer. It is clear that he has the only right by express direction, and having the right, it would be strange, indeed, that he could open the poll, but the election could not progress; that he could begin the work, but could not go on with the work; that he should proclaim, Come and vote, yet nobody could lawfully give a vote, notwithstanding voters should stand pressing at the polls, and the sheriff having the express right of appointing persons to act in the stead of those failing to attend. Voters go to the polls before 10 o'clock, for their own convenience; they demand of the sheriff to perform his duty. He alone can open the poll—the officers are absent—he sees in the law how he should act; in such a case, what shall he do? His duty is plain—to obey the express direction of the law and the constitution, and the command of the sovereign people.

But the gentleman from Louisville [Mr. POPE] says the time of voting for members of Congress is fixed by law, and not by the constitution of Kentucky; which, he contends, only relates to representatives to the Legislature of the State, and that the Legislature could limit the time of voting to only one hour of the day. This is strange doctrine. I suppose no other gentleman but himself entertains this opinion, as I have not heard it expressed before; but as it comes from one who ought to know something of the constitution of Kentucky, it deserves a notice. In the first place, the constitution of the United States says, as I have read before, "representatives to Congress shall be chosen every two years;" and the constitution of Kentucky, just referred to, declares "that representatves shall be chosen on the first Monday in August," &c. Now, what representatives are here alluded to in this latter clause? Certainly all that are to be chosen; the expression is general and comprehensive, and not confined to any particular class. The term cannot be restricted to the members of the State Legislature, because, when those of the State alone are mentioned, different language is used, as sec-

* Meaning young lawyer.

tion 5th—"elections for representatives for the several counties entitled to representation, shall be holden at the places of holding their respective courts," &c. This latter clause shows that the terms are embraced in the general term of the former; but the former is not restricted to the latter, it is plain, because different expressions, not synonymous, must mean different things, and convey different ideas to the mind; and when the constitution speaks alone of representatives to the Legislature, the language is used according to the latter clause, specifically pointing out representatives for the several counties; and then, again, the clause recited concerning the qualifications of voters, speaks emphatically, that every citizen, having the said qualifications, shall enjoy the right of an elector in all elections for representatives. Now, according to the construction of the honorable gentleman, this latter expression does not include a representative to Congress, but must mean a representative to the Legislature of the State; which would narrow down the meaning so as to exclude State senators, governors, and lieutenant governors; and from this argument the qualification of voters for these latter officers could be qualified and changed by the Legislature just as they pleased; whilst that of the former would be permanently fixed, which would certainly be a strange state of things indeed. But it is plain that such reasoning is unsound, and the evident meaning of the expression, representative, as used throughout, is a word of general import, relating to all public agents chosen by the people at the general elections. If these considerations are duly weighed, I think the gentleman will not persist farther with his doctrine of legislative restriction. It is now contended by the opposition, generally, that the votes taken in Garrard county, on the first day of the election, before the hour of ten o'clock, were illegally taken, and cannot be counted, the greater part of which were given for Mr. Letcher. This is a position which I deny. What are the facts as stated in the depositions? An election had been held for trustees of the town of Garrard county; on the first morning of the election, voters were at the polls insisting to vote early in the morning for fear a crowd would produce the cholera, which had just prevailed with almost unparalleled mortality. The officers all being present, except Mr. Wheeler, one of the judges appointed by the court, the sheriff appointed Moses Grant, Esq. in his stead, and the polls were opened about nine o'clock in the morning; Grant agreeing to act only until Wheeler should arrive, having first taken the necessary oath. The inquiry is now presented, What is a proper construction of the law as to the time of opening the poll? The expression, by ten o'clock, shows, conclusively, that restriction of time was not intended; the preposition *by*, in the sense here used, means at or before. This is merely a command to the officer, saying, You shall not delay the performance of your duties after that hour, leaving his discretion free to act before the time in perfect accordance with the provision of the constitution, giving the whole day, as I think I have clearly demonstrated. This being the case, when Wheeler failed to attend, could the sheriff legally appoint Grant to act in his stead? Most unequivocally; for such is the express authority given in such a case, as has been shown from the law which I have read to the House. But to suppose that I have been wrong in the positions which I have taken, and the gentlemen in the opposition are right when they say that the sheriff could not appoint before ten o'clock, and that Grant was not a legal judge of the election, will these admissions prove that the votes taken are illegal and the election void? Certainly not. Gentlemen have not properly considered the difference between illegal officers and illegal acts; they seem entirely to have forgotten the validity of the acts of an officer *de facto*, recognised by law. What is an officer *de facto?* He is one who is acting in office without having a legal appointment; but whilst in office, his acts are good as concerns the public and third persons. Those of an officer *de jure* are good against all the world. The validity of the acts of an officer *de facto* are expressly recognised by the decisions of the supreme court of the State of New York; for the truth of which, I appeal to an honorable gentleman who is himself an able lawyer—I do not mean the gentleman before the Speaker's chair, [Mr. Vanderpoel,] but him who occupies the seat to my right, [Mr. Beardsley.] I suppose I am right when I call him lawyer. I judge from his very able speech on the deposite question; although I differed from him in every particular, he certainly searched the three departments very closely, though some have said he was quite unfortunate in some few expressions, I mean "perish credit, perish commerce;" but be that as it may, it was certainly very wanton, yea, cruel, for the editors of newspapers to attack a member of Congress, because, in the heat and fury of debate, he happened to get hold of a few wrong words; but, perhaps, to relieve the honorable gentleman from unnecessary trouble, I had better read the extract:

"Acts of an officer *de facto*, who comes into office by color of title, are valid as it concerns the public or third persons who have an interest in his acts—7 Johns. Reps. p. 549." The gentleman from Kinderhook [Mr. Vanderpoel] has argued that, in this case, the sheriff of Garrard county had no power under the law to make an appointment before ten o'clock; that the power being contingent was improperly exercised; and, consequently, Grant was not a legal judge; and from these premises he has laid down the broad proposition, "that whenever a contingent power is to be exercised, it can never be exercised until the contingency happens; that, if it should, an officer's appointment would be illegal and his acts absolutely void." To grant the premises, I deny the conclusion; because it is at war with reason and the settled laws of the land. The gentleman from Philadelphia [Mr. Binney] touched on this subject, but I propose to investigate the subject a little farther. The gentleman [Mr. Vanderpoel] has presented legal propositions, but no law, no book; why did he not? I suppose he is a considerable lawyer; but that is not sufficient, I want other evidence. He says he has not examined into the law since the question was made. And why? Time was given; several days have elapsed since the gentleman from Philadelphia addressed the House. The library is near at hand, quite convenient for him at any time; and yet he says he has not examined into the law. That may be, but he has said enough to convince my mind that he either does not understand the subject, or examined far enough to find the law does not bear him out in his absurd positions. The gentleman does not stand alone in his doctrine of contingent power. I believe the same ground is taken by all who advocate that side of the question. As this is the foundation of all the arguments on this branch of the subject, it deserves minute inquiry.

I will now present a case in point, decided in the court of appeals of Kentucky, which ought to be familiar to the mind of my colleague from Louisville, [Mr. Pope.] The case is, the justices of Jefferson county *vs.* Clark, reported in first Monro, page 82. The facts of the case were these: the county court recommended Lawrence and Clark to the Governor of Kentucky, as fit persons, the first to be commissioned a justice of the peace. Lawrence, who was commissioned, refused to accept the office, and the governor without any further recommendation, commissioned Clark a justice of the peace. The constitution of the State declares that, when a justice of the peace shall be needed in any county, the county court for the same shall recommend to the governor two persons to fill the office, one of whom he shall appoint.

After the appointment of Lawrence was made, it is plain that the governor had no power whatever to appoint Clark on the same recommendation which had performed its office. The court says: "It results, then, as under the constitution the governor could appoint but one of the persons recommended by the county court, and he had, in virtue of the recommendation in this instance, appointed Lawrence, that the subsequent appointment of Clark, on the same recommendation, was unconstitutional; and, if so, it is plain that Clark cannot have a legal right to the office. His official acts are no doubt valid; for it has been repeatedly decided by this court that the acts of an officer *de facto* are not void." Now this is a case of contingent power. The governor had no authority to appoint unless through the means of another recommendation, (which is the contingency,) and having done so without authority, the appointment was unconstitutional, and the person appointed had no legal right to the office; yet his acts were recognised as an officer *de facto*, which destroys the position which the honorable gentleman and his friends have taken.

Apply the principle of the case cited to the contingent power of the sheriff, and his appointment of Grant as a judge of the election, and the principle established is, that, although Grant's appointment was not authorized by law, yet his acts are good so far as third persons and the public are concerned; which is the very reverse of the doctrine for which the gentleman has contended. If the sheriff appoint only when the contingency shall have happened, the officer is at once *de jure*, and the gentleman has not shown us, in his reasoning, how an officer *de facto* can exist at all, or be recognised in law. His position at once destroys all idea of such an officer, which is quite absurd.

The principles which I urge, I do not wish to prove by argument, but by law, which the other side did not do. In Bacon's Abridgment, title Offices and Officers, the law is laid down thus: "Regularly a deputy cannot make a deputy; because it implies an assignment of his whole power, which he cannot assign over, (note C.) for a deputy being one only who is authorized himself, he cannot delegate that authority; and if a deputy might make a deputy, so such second deputy, and so *ad infinitum*, would be highly inconvenient, (note D.) But when the deputy of a deputy of a collector, sitting in the custom-house with other officers, his acts were held good as an officer *de facto*, though not *de jure*, and that it would be very hard to put those who have to do with custom-house officers to inquire into the legality of their institution."—Cro. Eliz. 534. Here, then, is the law: that a person being appointed by one having not even a contingent power of appointment, was held to be an officer *de facto*, and the great reason is the sake of convenience and public justice. This law, when applied to the Garrard election, will prove that although Grant had no legal appointment, yet the votes taken are valid, because it would be hard to put the people voting at the polls to the necessity and inconvenience of inquiring into the legality of his appointment. The case put in the book is much stronger than the one before us, because the custom-house officer was appointed by one who at no time had the appointing power, and such are the principles as contained in the common law, which is common sense, and common sense is much better than political sense, as experience will prove to every man. Suppose Grant had no legal authority, yet he acted and was recognised by sheriff, judge, clerk, and the sovereign people themselves, who went to the polls, and had their votes recorded in all the forms of law. But it is contended, that if Grant could legally act, he should continue until the end, and Wheeler's right being gone, Wheeler could not legally act as judge. No doubt a fair construction of the law, so far as concerns the right of Wheeler, would permit him to have until the time of ten o'clock, to attend the poll and take his seat as judge, without interfering with the sheriff's right to appoint before that time; but be that as it may, whilst he acted as judge, and was recognised as such, the same *de facto* principle applies to him with equal force, and it would be a great hardship that, in the midst of an election, the people pressing to the polls must stop to inquire into the validity of the appointment of all the officers who are performing the several duties. The object of the election was the benefit of the people themselves, and not that of Moore or Letcher. Can it be incumbent on the people to make such inquiry? Certainly not. If it should, how ridiculous, how absurd. And such is the doctrine of gentlemen. Now let us test its practical effects. Suppose one thousand men go to the polls to vote, as is contended, all must know whether all the officers have been appointed according to all the forms prescribed by law, each for himself: one will say it is all right, another it is all wrong; one will say I will vote, another will say I will not vote; one will say this is a legal judge, another will contend in opposition; and thus, in the midst of an election, the polls must be stopped for unmeaning controversy, and the right of suffrage end in riot and confusion. Yes, this is the total sum and substance of the arguments of gentlemen, which they have endeavored, with so much zeal and apparent earnestness, to press upon the good sense of this House, for its serious and deliberate consideration.

I come now to discuss the legality of the votes taken on the second day of the election, whilst the sheriff was absent from the poll. The facts are these: Kennedy, the sheriff, left the poll, in consequence of the violent illness of his wife, who shortly afterwards died, having first appointed Spillman to attend the election in his stead. Marksbury afterwards was appointed by the judges to cry the votes, and who acted until the arrival of Yantis, the deputy sheriff. It is now contended that the votes thus taken, amounting to some thirty or forty, shall be rejected. The law which has been read, and the principles urged to sustain the votes whilst Grant was judge, will apply with equal force to the person who attended the poll, and the votes taken whilst the sheriff was absent. But I will examine some other principles; and the question first occurs, Can the sheriff substitute one to act in his stead, in any case whatever? If his office were judicial he could not. According to Bacon, "a judicial officer, it is said, cannot make a deputy, unless he hath a clause in his patent to enable him, because his judgment is relied on in matters relating to his office." But the sheriff, being a ministerial officer, the case is different. Thus says the same book: "It is held that the office of constable, being wholly ministerial, and no way judicial, he may appoint a deputy to execute a warrant directed to him, when, by reason of sickness, absence, or otherwise, he cannot do it himself; for the public good requires that there should be always some officer ready at hand to execute such warrants; and too rigorous a restraint of the service of them to the proper officer, could not but sometimes cause a failure of justice." Here, then, in the case of this election, the sheriff's wife was taken sick, and the public good required that the election should not be delayed; and if the sheriff had not appointed some person in his stead during his necessary absence, he would have been guilty of a breach of his duty, upon the clearest principles of common law. He can always appoint a deputy, by parol, being answerable for all his acts. But the gentleman from Georgia [Mr. JONES] contends that the deputy must be sworn, and calls on the members from Kentucky to state if such is not the fact. I answer that it is; but if he acts and is not sworn, what then? In England, a deputy is required also to be sworn; and a case in Bacon says: "The high constable appointed a deputy to billet soldiers under the mutiny act. This appointment was by parol only, and the deputy was not

sworn by the court. The high constable hath power, by the act, to billet soldiers, and he may appoint a deputy to this particular ministerial act." The same principle is recognised by the court of appeals of Kentucky, in the case of the Commonwealth against Arnold, as read by my colleague, [Mr. Hardin,] wherein a deputy clerk acted by parol appointment, not having taken the necessary oath; yet his acts were deemed good as an officer *de facto;* that is, so far as third persons and the public are concerned. Now, let us illustrate the principle, from some of the facts themselves. How will it stand, suppose Grant only to be a judge *de facto*, who is the second person interested? Certainly, Wheeler, the rightful judge, who alone can question the right of Grant, and turn him out by writ of *quo warranto.* Mr. Moore is the third person, and is bound by the act, and surely the election greatly concerns (if you please) the democrats of the fifth congressional district.

These principles are recognised as law in England, law in Kentucky, law every where; and he who doubts it is himself a doubtful man, (pointing to Mr. ———.) The gentleman from New York [Mr. Vanderpoel] has drawn many parallels between elections and courts of justice. It is true the officers to conduct an election are all that would be necessary to constitute a legal tribunal; but who will contend that if a sheriff were absent, the decrees of a court would be null and void? Who will contend that if a sheriff be absent from a court but a short time, hunting up a jury, that the acts of the court during such absence would be *coram non judice?* Does not every one know that the acts of ministerial officers cannot vitiate the decrees of courts? Then, who are the judicial officers of an election? Certainly the justices who are sworn to act, and who are characterized as judges. The ministerial officer is the sheriff, the appellation having a definite meaning, well known in the law; but the gentleman seems to confound these officers without distinction. I will admit that, if the sheriff performed any judicial act at an election, the arguments used would have some weight; but such is not his duty. His presence is not absolutely necessary after the polls are opened. For convenience, it is true, he should be present, for the purpose of keeping order, and performing other ministerial acts of his office. But this clause is what they hang much weight upon: "The persons entitled to suffrage shall, in the presence of said judges and sheriff, vote," &c.; and, also, this other clause: "That unless the sheriff, or one of the judges, shall know that the person offering to vote is entitled to suffrage under the constitution, the clerk of the poll shall administer to such person the following oath," &c. And hence is contended the indispensable necessity of the presence of the sheriff. It will appear, from this latter clause, that if the voter presenting himself is unknown to either of the judges or the sheriff, he takes the oath, &c.; and the sheriff's presence is only necessary when the individual is unknown to either of the judges; but if they know him to be a qualified and legal voter, the sheriff can perform no act. Now, when the election progressed, in the absence of Kennedy and his deputy, the judges, or one of them, must have known the voters, and that they possessed the requisite qualifications; the legal presumption is, that the judges did their duty, and knew the persons to be qualified. If they did not, the result, perhaps, might have been to stop the poll and wait the arrival of the sheriff; but when the voters were known to the judges, the right of suffrage could be exercised, unaided by the sheriff, even if he stood dumb and silent as a marble pillar.

Let us go a little further into this matter. The gentleman contends that the law requires that the votes must be given in the presence of the sheriff, according to the clause of the law which I have read, or they cannot be counted. Now, a clause preceding says that the sheriff, or other presiding officer, shall open the poll. And what is an officer in its legal sense? Jacob's Law Dictionary says: "Officers are public or private; and it is said that every man is a public officer who hath any duty concerning the public." The law recognises another officer than the sheriff to open the polls; and it would be absurd to give him that right, and deny the right to voters to give their votes, because he was not a sheriff. A fair construction of the two clauses certainly gives the voters a right, in the presence of him who shall be the presiding officer at the polls; and no doubt this provision was intended in case the sheriff could not attend; and, as the law does not provide for the appointment of that other officer which is recognised by law, the officers of the election must, from clear implification, and the necessity of the case, make the appointment, which was done at the Garrard election.

I believe I have answered all the main arguments of the gentleman from New York, [Mr. Vanderpoel,] with the exception of his long list of Latin quotations. I am quite rusty in the language, and cannot now stop in the middle of my speech to make a translation. He is quite fluent, and reminds me of the verse in Hudibras—

> "He speaks the Latin and the Greek,
> As easy as a pig can squeak."

Indeed, some of the gentleman's quotations I could not so very well tell whether they were Latin, Greek, or Dutch.

Mr. Speaker, I will now specially attend to the gentleman from Ohio, [Mr. Hamer,] who contended in argument that the forms of the election must be complied with strictly; that the people are bound to know the rules; and hence, he said, every man is bound to know the law; that if a man be arraigned for crime, he cannot plead that he did not know the law. This is well enough; and proves that when a man commits a crime he should be punished; but does it prove that every man is bound to know that every officer executing the law is appointed according to all the forms prescribed by law, in regulating his appointment? Does it prove that every voter coming to the polls in the midst of an election, must stop to inquire into, and to adjudge and determine whether the officers conducting the election, all and each of them, have been appointed according to all the forms of the law? Certainly not. Then his whole argument is foreign to the case before us—as much so as if he had delivered himself on the constitutionality of the bank, or the removal of the public deposites. The gentleman is pretty much in the same condition of a lawyer once in Kentucky, who produced some law to a shrewd client, who contended that it proved nothing, and was foreign to his case; but the lawyer said it was his duty to hunt up the law, and if it did not apply, it was not his fault. He was certainly an honest fellow—a thing that does not always happen. But I will not bear too heavily upon my friend. I will share with him part of the burden, by a frank confession, that whilst at the bar I have often been in the same forlorn condition.

The honorable gentleman made use of an argument, which I thought had nothing in it; but, at the time, I thought I saw a smile of approbation proceed from the countenance of the honorable chairman of the Committee of Ways and Means, [Mr. Polk,] with whom I have never yet had the honor of shaking hands, although, I understand, he has his eye upon the Speaker's chair. I suppose, with this gentleman, the argument must have had some weight; and, for his benefit alone, I shall give it due consideration. The argument was predicated on a case supposed, that if a man having no authority, not being sheriff, should claim to act as such, and an individual should pay him tax, the payment would not be good; and that the sheriff could afterwards come and collect the tax again. This is correct law. And why? Because the

sheriff would be then acting, and in office, both in fact and of right; and the individual assuming to be sheriff, would have no color of office, and could never have a color whilst the sheriff was acting. When the gentleman's argument is applied to the facts of the case of this contested election, does it prove that the acts of an officer of an election, or even one acting as such, recognised by the other officers, and also by the voters at the polls, no exceptions taken at the time by any body, the election conducted fairly on the day, and at the place pointed out by the constitution: I say, does this argument prove that votes are illegal and void, because the person acting has not been appointed according to the forms of the law? Certainly not. Now, I will put the case of the sheriff as it should be. Suppose the sheriff should give his tax-book to A, and tell him, Go and receive the tax from B, who will pay you; which is done accordingly—could the sheriff afterwards go to B and make him pay the tax again? Certainly not. I say that the payment would be good against the sheriff, and all the world besides, notwithstanding A was a private individual, and had not taken the necessary oaths of office. I hope this will satisfy the honorable gentleman from Tennessee, [Mr. POLK.] I shall now again resume my business with the gentleman from Ohio, [Mr. HAMER.]

The honorable gentleman has taken great exception to the word usurper, mentioned in the minority report of the committee of investigation, and wonders why it is that those who call themselves Whigs, after having said so much, should now be in favor of usurpers. He says that he is against all usurpers. I am heartily glad of that, but I am extremely sorry that the gentleman has broached a subject which, I fear, is calculated to call up party feelings. I hope he did not intend his remarks to have that effect. Be that as it may, I know the Whigs are not for usurpation. What are they striving now to do? It is to put down the acts of Alfred Hocker, a great usurper; him who has violated the laws of Kentucky, and trampled into dust the rights of the people of the fifth congressional district; him who has defeated the elective franchise, and deprived the State of Kentucky of her full share of representation in the Congress of the United States; him who has controlled the political destiny of Robert P. Letcher, and given so much vexatious trouble to this House; him who has violated his oath of office, and aimed at judicial powers, which, when united with the Executive, according to Mr. Jefferson, is the very definition of tyranny itself. Yes, this deputy sheriff has done all these things, and the Whigs are now trying to put him down. But hear what he says, as is proved: "He had made a motion before the sheriffs to admit evidence of the irregular and illegal manner in which the election had been conducted in Garrard, with the view, if the allegations on that head turned out to be true, to exclude the Garrard poll from the comparison of votes; that he did it because, from what he had heard, he thought it his duty to have that matter inquired into by the sheriffs; and that when his motion failed, he declined taking the Lincoln poll-book into the court. He said he had done so from his own conviction of duty, without hope or offer of benefit in any way; that perhaps some would think he had acted out of his duty, but he believed he had not. He said that he had consulted his judgment and feelings of right and duty alone; and he said that the inquiry he wished to make, he thought, would have a great effect in preventing frauds, corruptions, and improper conduct in elections," or words to that effect. He said, "when he learned how the election had been conducted in Garrard, he thought the matter ought to be inquired into:" he said, "he had taken great responsibility upon himself," almost the very language of another celebrated document. Yes, this deputy sheriff, as he says, to do his duty, prevent frauds and corruption, took the responsibility on himself in the month of August last, just one month before the other responsibility. He speaks the language of Cromwell himself: all usurpers talk alike in every age and in every clime. This deputy is the first man in this hemisphere who took the "responsibility upon himself to put down corruption." He is the first to propagate the sentiment, the first discoverer, and is entitled to all the honor and glory, as much so as Christopher Columbus for being the first discoverer of the continent of America, and no man has a right to rob him of it. Hocker is in bold array against Mr. Letcher; so is the gentleman from Ohio. They both act together in the same unrighteous cause against the Whigs, and for usurpation; and, notwithstanding the gentleman's declarations, his candor must admit that he is found in bad company, from which he should extricate himself as soon as possible, and join the standard of the Whigs. The gentleman speaks about original rights, and inherent rights of suffrage, and denies that for which no one contended. The gentleman from Pennsylvania [Mr. BANKS] contended for pre-existing rights secured in the constitution; and I also say the right of voting is not given in the act prescribing the mode of elections, but is pre-existing; and such was also the meaning of my colleague, [Mr. HARDIN;] but the gentleman has run ahead of this into the orginal and natural rights of men and women, and from thence contends that even a part of the ladies possess the inherent right of suffrage. If this is argument, it is but half a one. Whilst he is contending for a part to have the right of voting, I will go for the whole. I have frequently seen men leading one another to the polls, but to my mind it would seem quite more genteel to see a gentleman leading up a lady. Being a bachelor, and yet undisposed of, I am now in favor of extending the right of suffrage to every female in the land. But, Mr. Speaker, pardon this digression, this appeal which, I confess, more appropriately belongs to the gallery than the Chair. But, to return again to the honorable gentleman: I understood him, in the beginning of his speech, to admit the principle that a majority should rule, and that their voice should prevail in this contest; but he unfortunately ended by declaring that a large number of legal voters for Mr. Letcher should be excluded; and when the two ends of the speech are compared together, they will be seen as the very antipodes themselves.

Mr. Speaker: In the progress of my remarks, I now come to another important branch of the subject—concerning the students of the Danville college, in Mercer county, all of whom, I believe, but one, voted for Mr. Letcher. These votes have been rejected by a majority of the committee of investigation, on the ground of a lack of residence; and the same gentleman, and others in their speeches, urge the rejection of these votes for that cause alone. This leads to an inquiry concerning the kind of residence required by the constitution and laws of Kentucky. The majority report, which has been reiterated and vindicated by the gentleman from Georgia, [Mr. JONES,] has gone fully into a train of reasoning on the subject. It is contended that a person entitled to vote in any county must have therein a fixed, permanent domicil, according to the civil law; that a construction has been given to our constitution with regard to residence in the case of Williams and Mason, decided in the Senate of Kentucky, with regard to the vote of Stephenson Ellison, which the report seems to regard as a precedent, and the majority of the committee consider that decision as fixing a rule by which they are warranted in striking from the poll the votes of the Danville students. With due deference to the honorable committee, I think they are not warranted in this conclusion. What facts can be gathered from the case of Williams and Mason as to the vote of Ellison? They are not attempted to be given. The facts and circumstances are not detailed, as to the residence of Ellison. The depositions which governed the Senate of

Kentucky in the decision of that case are not spread on record; and it is well known to be the law, that residence must be made out by facts, being, as it were, a compound of act and intention; and the declarations of a party at the time go to show intent, and form a part of the *re jestæ* of the transaction; and all the main circumstances must be shown to prove the actual state of the fact, which is not attempted in the case referred to. Upon what reason, then, the majority of the committee can apply the case of Ellison to the Danville students, without knowing the facts connected with his residence, I am at a loss to know; and, as they have not been pleased to give the principle upon which they acted, I must suppose that at least this branch of the report was penned without due consideration. Upon this subject I am well acquainted, from my own personal knowledge of the facts. I knew Ellison from my boyhood; he was my neighbor; he had a family, became embarrassed, and left them without making any declaration whatever of his intention. He wandered down the Mississippi and into Texas, and at length returned to his family, after an absence of some four or five years, and was residing with them in Montgomery county, when he gave his vote for Mason. If these facts had been known to the gentleman from Georgia, [Mr. Jones,] I am sure he, and others acting with him, would not have contended that this case formed a principle for the exclusion of the students of the Danville college. If Ellison had made his departure with his family, no one would contend that he had not lost his residence, and would not have been a legal voter. Let us now see the different situation of the Danville students. It appears from the depositions that they are all single men, some upwards of twenty-seven years of age, and, having resided at the college from two to five years, they work on the roads, pay tax, and perform militia duty; the declare their intention not to return again for the purpose of making their home with their parents; and some state, when they finish their education, they intend to go where Providence shall direct. From these facts the inquiry is fairly presented, Are these persons legal voters of Mercer county, according to the constitution and laws of Kentucky? The constitution, in express terms, gives the right of voting "in the county or town in which he may actually reside at the time of the election." Will any one seriously contend, after viewing these expressions, and the facts referred to, that these students did not actually reside at the college in Mercer county at the last election? If they did not, I beg of gentlemen to inform me where they did reside. I believe such a question will puzzle the wits of the opposition to give an answer. When men locate themselves, work on roads, pay tax, perform militia duty, and engage in the business of the county, without avowing any other home, do they not become citizens of the place to all intents and purposes? They not only actually reside there, but, according to the *animus manendi*, become domiciled according to the definition of the civil law, for which the gentlemen have so strenuously contended. Yet this class of citizens are denied the right of suffrage by the majority of the committee of investigation; their rights are involved in this inquiry; they have a deep interest in the decision of this House; and upon the decision depends that invaluable privilege which alone belongs to freemen; and I am sure the House will pause and ponder well before they rob them of it. Some gentlemen contend that the right of voting is acquired by *domicil*, by which they say is meant the habitation in a place, with an intention of always staying there. It is not necessary for me to inquire whether such is really the meaning of Vattel, as it is contended; it will meet my purpose to prove that such is not the language or the meaning of the constitution of Kentucky, which I think I have assuredly done. According to our practice, which is never questioned, circuit riders and other ministers of the gospel who reside in a county but for a year, have ever voted, and their right is clear beyond a doubt; but the absurd and unjust principle here advanced would cut them off, and perhaps render their situation such that they could never exercise the right. The governor of Kentucky, who has only a temporary residence in the town of Frankfort, exercises the privilege of voting, and no doubt the President of the United States has the right of voting in this city. He does not now reside at the Hermitage. His residence is at the White House, and how long he will continue there no one can tell.

Mr. Speaker, the resolution now before the House is intended to deprive Mr. Letcher of the seat, notwithstanding he has the voice of a clear majority of legal voters. By this resolution we are called upon, under the pretext of certain strange constructions, to defeat the will of the sovereign people—to exclude votes—to disfranchise brave, virtuous, and independent freemen. We are called upon to deprive the people of the fifth congressional district of their legal representative, and sanctify the corrupt acts of Alfred Hocker. We are called upon to say that those people shall not have the right to choose their public servant, as guarantied to them by the constitution of the country, but we will make the choice for them—no, no, that the power shall be given to Alfred Hocker. Yes, I say we are called upon to give a decision which will put it in the power of a mere deputy sheriff to defeat the will of the people, and put down a legal member of Congress, just according to his will and pleasure. I pray the House to pause, reflect, and consider well, before they act.

Mr. Speaker, I have endeavored to show the inconsistencies of gentlemen, and point out the contradictions, one against the other, even of those who stand together in a common cause. They seem, as it were, to have wantonly pulled some machinery asunder, without being able to replace the several parts. I have endeavored to aid them by placing, as I conceive, the several parcels in proper order, and in such a way that the whole, if I may be allowed the expression, is now a unit; such, I hope, is my argument. I know that I have said some things, perhaps, not very pertinent to the subject-matter before the House. My object was not to weary, but to give some relief—add some variety to a dry debate. Without a little spice, men will not swallow every thing. I am now quite exhausted, and must come to a close. If any thing is left to be said, other gentlemen can follow. I hope that I have not hurt the feelings of any one; I did not intend it. If I shave a little, I wish to do it smoothly. It is never my design to cut with scalpel or kitchen knife; but, as a political doctor, I had rather, in the language of Colman's song, prescribe sodorifics and going to bed.

When Mr. Davis had finished his remarks—

Mr. JONES (chairman of the Committee of Elections) moved to amend the resolution reported by the committee, by inserting the words "by qualified voters" after the words "votes given," so as to present to the House the question, whether votes given by qualified voters at Lancaster, in Garrard county, before the hour of ten o'clock, should be allowed or not; and also to strike out the word "casual," before the words "absence of the sheriff," so as to designate votes given while the sheriff was purposely absent from the poll, and present the question whether such votes should be allowed.

Mr. J. replied at some length to the speech of Mr. Davis; and, when he concluded his remarks,

The House adjourned.

Thursday, May 29.

BANK U. S. INVESTIGATION.

Mr. J. Q. ADAMS obtained the unanimous consent of the House to submit the following resolutions:

Resolved, That the select committee of this House, appointed on the 4th of April last, to investigate the proceedings of the Bank of the United States, be discharged from the further consideration of the subject referred to therein.

Resolved, That in the transactions of the said committee with the president and directors of the Bank of the United States, as set forth in the reports of the committee and in the correspondence annexed to the same, no contempt of the lawful authority of this House has been offered by the said president and directors of the bank, or by any one of them.

Resolved, That any order of this House to the Sergeant-at-arms to arrest and bring to the bar of the House the president and directors of the Bank of the United States, or any one of them, to answer for an alleged contempt of the authority of the House, as proposed by the concluding resolution offered by the report of the majority of the said select committee, would be an unconstitutional, arbitrary, and oppressive abuse of power.

Mr. ADAMS said it was his intention to propose these resolutions as a substitute for those reported by the majority of the committee appointed to investigate the affairs of the Bank of the United States, when the reports should come up for consideration.

On motion of Mr. A., the resolutions were ordered to be printed.

ADJOURNMENT OF CONGRESS.

The House then took up the joint resolution, submitted by Mr. BOON, fixing the 16th day of June for the adjournment of Congress.

Mr. POLK said, although he felt that it was time to fix a day upon which Congress should adjourn, yet, considering the state of business before the House, the day named was too early. He had voted, on a former occasion, for a postponement of the consideration of this subject, under the hope that, in the mean time, they would have made some progress in the important measures before them. But, in that time, scarcely any of public importance had been disposed of, with the exception of the bill making foreign silver coins a legal tender. The appropriation bills for Indian annuities, it was true, had been ordered to be engrossed for a third reading; those for the harbors and the Cumberland road were in a state of forwardness; that for the construction and repair of fortifications was in the Committee of the Whole on the state of the Union—so that it would not take a great while to dispose of them all. The bill to regulate the deposites in the State banks it was his design to call up immediately after these shall have been disposed of. And, having these in full view, he was constrained, although anxious for adjournment, to say that the 16th could not, with safety to the public business, be fixed upon. He would, therefore, suggest to the honorable mover of the resolution a day by which, in all probability, these could be got through with. The 23d of June appeared to him to be that day which presented a reasonable prospect of accomplishing this object; and he hoped he would modify his resolution by inserting it.

Mr. BOON said he had already yielded to the suggestion of some honorable members, to prolong the day which in his opinion it was necessary for Congress to adjourn. The subject was now in possession of the House, and he did not feel authorized to modify it. He left it to the honorable chairman of the Committee of Ways and Means to propose an amendment to the resolution if he thought proper.

Mr. ELLSWORTH said he could only express his own individual opinion. He would vote for the earliest day that would be satisfactory to the House. The earlier the better. There were bills on the table which he had indulged the hope would have been acted upon prior to an adjournment. But he was now convinced they would not be, and that all that would be acted upon were those named by the chairman of the Committee of Ways and Means as of a public nature. He had indulged the hope that there would have been some expression of opinion, on the part of Congress, as to the reasons presented to them, by the Secretary of the Treasury, for the removal of the deposites by him from that place where they were placed by law; and he could only say for himself, (and he could not see how other members could escape from coming to the same conclusion,) that it was their duty to do so. The majority in the House was especially called on, by a due regard for the character of the Chief Magistrate, involved in the act of removal, for that of the Secretary, and for the bank; it was due alike from regard to the constitution and to their constituents, not to adjourn without a deliberate expression of their opinion. But he would not dwell upon this, further than to express his surprise that the House had not been willing to meet the issue presented to them by the Secretary, and thus declare whether his reasons were satisfactory or not. He had also hoped, before they separated, they, the representatives of the people, chosen to guard the public treasures, would have fixed upon some principles, some law by which those treasures were to be in future regulated.

The member from Tennessee said he was desirous to take up the bill for this purpose. He (Mr. E.) would be most happy if there was any reasonable prospect that such a bill could be got through. He did not, however, suppose there was. The public treasure being at present without the safeguard of any known law, was to be left—

[The SPEAKER said the gentleman must confine his remarks to the subject before the House.]

Mr. ELLSWORTH considered that he had a right to allude to this bill, as connected with the resolution to adjourn; but he would forbear. There was another subject, the disposition of the public domain, one of paramount importance, also, to be passed by, which he was most anxious to have acted upon. He foresaw that these would not be taken up, or, if so, not acted upon; and, feeling that the earliest day named would give sufficient time for all the bills that were likely to be passed, he would vote for that day.

Mr. HARDIN could not concur in the views expressed by the member from Connecticut, as affording a good reason to adjourn at an early day; and contended that, with a due regard to the business before the House, and that which was before the Senate, the time specified was too short. The Senate, it should be recollected by the House, had, in addition to their other heavy business, much of what might be called vexed Executive business to act upon. He would, therefore, move to insert the 30th instead of the 16th of June.

Mr. BEARDSLEY contended for the earliest day. He said that the House had been told, when the resolution was first introduced, that, if its consideration was postponed, they would be in a better position to decide upon the time that should be fixed. They had postponed the consideration of the resolution, and what was the result? The House knew, and the country knew, that scarcely any business had been done. They had done nothing, unless he might say it was something to put matting in the Hall; while that was doing, some honorable members were taking a trip to Virginia for amusement, and then having some talk about the Kentucky election. He believed nothing of importance would be attended to, unless there was a day fixed. He was glad, however, to see there was some unanimity as to fixing some day. That question was for the House, in its judgment, to fix. They were to judge for themselves what day was must proper for that purpose. It was not, as the honorable member

from Kentucky supposed, what day was to suit the Senate; for that body, if they conceived the 16th inconvenient, would, no doubt, fix upon another. He would contend, that if the House went to work seriously, with the determination to do business, instead of wasting time by having short sittings and long speeches, that they would have it in their power to pass all the appropriation bills that were necessary in three or four days, or, at the utmost, in a week. This would leave eight or ten days for the other business; in which time, if it was likely they were ever to agree on the bill to regulate the deposites in the State banks, they would do so. They could do so certainly within this time. But even if they did agree and pass this bill, he would ask, did any one suppose that, when passed, it would find its way through the other end of the Capitol? (the Senate.) The gold coin bill, too, was of importance; but, if there was no debate on it, a few hours would suffice for it. Whether, however, it should find, ultimately, favor with the Senate, he did not know, nor was it important. They had, also, the subject reported upon by the committee appointed to investigate into the bank, which honorable members might desire to debate. He should hope, however, that it would be disposed of without debate; if not, most certainly the 16th, nor the 30th of June, nor 30th of July, would suffice to gratify the capacity of the House, so well known to all, for lengthened debates. It was a subject upon which gentlemen would talk until the end of the next session. But the member from Connecticut [Mr. ELLSWORTH] thinks it incumbent on this House to express its views in a direct form on the reasons of the Secretary of the Treasury. So he would have the subject of the removal of the deposites once more revived, in order that the House should speak its views. This was, in his view, altogether inexpedient, as the House, to the satisfaction, he believed of the country, had fully spoken upon it. If the honorable member would look to the papers, he would daily find evidence of this. The whole country knew that the House had spoken, and spoken, too, against that institution, the Bank of the United States, which the honorable member advocates as the most proper place for the deposites.

Mr. CHAMBERS would not have risen to trouble the House were it not that allusion had been made to the voice of the public; he could state that there had been some expression of it in two counties in Pennsylvania. That voice was, that the House should not think of separating, without devising and affording some relief from their sufferings, under the pressure of that ruinous measure termed the experiment. Were it not for the impression that nothing, however, would be done, wearied as he was, in common with the majority of the members, he would have been content to remain. But he confessed, from all that fell under his observation, he had no hope or expectation that any thing could be effected by Congress remaining longer in session. This Congress met, he said, under circumstances of more than peculiar reponsibility. They had not only to transact the ordinary business of legislation, but the whole currency of the country was deranged, which it was their duty to regulate. The business relations of an entire community were upset—the national treasures were sent adrift, they knew not where—and, under such circumstances, it was not matter of surprise that their tables should be loaded with the supplications of the people; that they should look to the action of the House with much interest. Notwithstanding which, there was to be evidently no action with reference to this subject. This, which it was not in his power, or that of his friends with whom he usually acted, to prevent, it was, which made him content to fix upon a day to adjourn; he would prefer, however, the day named by the chairman of the Committee of Ways and Means, in order to evince that there was, at least, a disposition on the part of the House to pass upon much of the important business which must be left unacted upon if the earlier day was named. The most important, in his view, was that for the regulation of the deposites, connected with which was an inquiry into the condition of the State banks. Into their condition, a resolution calling for information, it would be recollected, was submitted by the honorable member from Massachusetts [Mr. J. Q. ADAMS] two months past; and although no official information on the subject was laid before Congress later than the 5th of February, yet this information had not been sent. Considering, then, the business before them, he believed that the House would be acting precipitately if they fixed upon an earlier day than the 30th of June; and if in that time the business of importance was not done, he would consent to go home and tell his constituents, not what they had done, but what Congress had left undone.

Mr. PARKER proposed to insert the 23d of June.

Mr. BURGES had been willing to protract the decision upon this question, in the hope that some accident, propitious to the welfare of the country, might have intervened, and induce the House to retrace its steps. But he had become satisfied that the moment the indispensable business was done the session should be ended. He had hoped that when distress and desolation were covering the land, the House would have done its duty. But the people must take the matter into their own hands. Whenever the bill placing the deposites of public money into the State banks should pass, a revolution would commence, and ought to commence. As to the resolutions reported by the investigating committee, no person dared to vote for that which proposed to drag freemen before the House for a constructive contempt. There was not a tribunal in the civilized world which would enforce such a proposition. The only object in making it, was to take the eyes of the public from that individual who was grasping at the liberties of the people. Would the House adjourn and leave the public treasure in the hands of those marauders who have got possession of it? Would the House sit here thirty days longer and not vindicate its rights?

Mr. H. EVERETT moved to commit the resolution of Mr. BOON to a select committee, with instructions to report what business was, in their opinion, expedient for the House to act upon, and to report a resolution fixing a day for the adjournment.

Mr. BOON said, as he was anxious to meet the views of the majority, he would accept the proposition for the 23d; and modified his resolution accordingly.

Mr. E. EVERETT opposed the motion for a select committee, &c.

Mr. SPEIGHT, with a view to bring the debate to a close, called for the previous question.

The House refused to second the call: Ayes 87, noes 88.

The question being on the motion to recommit the resolution to a select committee,

Mr. BEARDSLEY moved to strike out the 23d and insert the 16th.

Mr. H. EVERETT modified the resolution by inserting after the word "business," the words "of a public nature."

Mr. P. C. FULLER proposed, "and that the committee report on or before Tuesday next."

Mr. H. EVERETT assented; and, after some desultory conversation, finally withdrew his motion for a select committee, and moved to insert in the resolution the 7th July, instead of the 16th June.

Mr. BEARDSLEY called for the yeas and nays on all the propositions except that for the 7th July.

Mr. P. C. FULLER renewed the call for the yeas and nays on the motion to insert the 7th July.

Mr. BATES requested his friend [Mr. H. EVERETT] to withdraw the proposition. For himself he should vote for the earliest day named. The responsibility of fixing the time should rest upon the majority, and he hoped the gentleman with whom he usually acted would not interpose in the matter at all.

Mr. H. EVERETT could not comply with the request. He did not regard this as a party question. It was a business question; and the responsibility of its decision rested upon every individual, according to his vote.

Mr. SEABORN JONES was opposed to fixing any day of adjournment, until some of the important measures before the House should be settled; particularly that regulating the deposites of the public money. He did not understand the argument, that fixing the day was necessary for the despatch of business. The proper mode of hastening the day of adjournment, was to sit and do the business necessary, and which the country required to be done.

Mr. BURD remarked that, if grave and mighty reasons to the contrary did not operate, he should vote for the earliest day proposed for the adjournment of Congress. After the protracted session which we have had, the public had a right to know why this body should spin out its session for some time longer, and why any one voting for a proposition which would produce this result, did so? He would remark that much, very much, of the time already expended had been taken with long speeches, with what effect on this House, he could not pretend to say; but he would say, if more of its hours were taken up in action, and fewer in speaking, the business of the nation committed to our charge would be improved thereby. Months had gone by in discussion on one subject, and finally the point evaded. If the rules of the House could be so changed that no one should be permitted to speak longer than two hours on any one subject, he believed an immense advantage would accrue. In his opinion, the reasons adduced by the honorable gentleman from Vermont were entitled to the serious consideration of every member of the House. That gentleman had mentioned three bills, all of great importance, which required the discussion of Congress. There are many others, besides these, public and private; also the appropriation bills now before the Senate; as well as the recent reports of the committee sent to examine the bank. If the House would set to work in earnest much could be done in one month, and would, no doubt. And, for one, he hoped the residue of the session, be it for the longest or shortest period, would be employed in those momentous questions now before it, in which the people of this country are so deeply, so vitally interested. If we give these matters the go-by, we had better have adjourned months ago; it would have been better in every point of view; but, sir, this is not expected. Our attitude is a responsible one--gentlemen talk of letting the responsibility rest on the majority. It lights on this body, if, after all which has occurred, we adjourn without discharging those duties we were sent here for, the passing of acts generally beneficial to the community; and of such character as many of the measures which the shortest period mentioned must necessarily prevent and exclude from the action of this House. I am, therefore, in favor of the resolution offered by the gentleman from Vermont.

Mr. JONES, of Georgia, moved that the consideration of the resolution be postponed until that day fortnight: which was rejected.

Mr. DAVENPORT moved to postpone the consideration until that day week; which was also rejected: Ayes 11.

The question then being taken on the motion of Mr. H. EVERETT, to insert the 7th July, as the day to adjourn, it was decided, by yeas and nays, in the negative: Yeas 28, nays 117.

Mr. VANCE said he should vote for this day, although he was in favor of a later day. No one could look at the state of our calendar without being convinced that, by the 23d, we could not act upon the ordinary business of the session, to say nothing of the bill respecting the deposites. What was the condition of the appropriation bills? The general appropriation bill, which occupied six weeks in its discussion here, had not yet been taken up in the Senate, and it could not be supposed that the Senate would finally act upon it by the 23d instant. Some of the appropriation bills would be lost if the 23d instant should be fixed.

Mr. CAMBRELENG, in a few words, signified his concurrence in the proposition to fix upon the 30th of June, and he expressed the hope that there would be such a majority in favor of the motion as would evince an intention, on the part of the House, at least, to make an effort to despatch the public business.

The question then recurring to the resolution as modified, with the insertion of the 16th June,

Mr. POLK opposed it.

Mr. BOON requested the honorable member from New York [Mr. BEARDSLEY] to withdraw his proposition for the 16th.

Mr. BEARDSLEY declined.

Mr. DICKSON called for the yeas and nays.

Mr. WILDE wished, before he gave his vote, to learn from the gentlemen who composed the bank committee, how long a time they calculated it would require to discuss and act upon the report they had made to the House. He desired the earliest day of adjournment that would not interfere with that object.

Mr. THOMAS rose, he said, to respond to the inquiry, cheerfully and readily. It was not for him to prescribe a rule of action to others in this House. But, without disrespect to others, he might undertake to answer the question which had been propounded. The committee of investigation, he said, were disposed to call up the resolutions reported by them, in good faith, and with a sincere, correct, and unequivocal determination to carry them through. The gentleman from Georgia could anticipate, as well as any one, the length of time which a subject embracing so wide a range of topics would occupy. So far as his own opinion went, he must say that he thought it utterly impracticable to undertake to act upon the questions involved in the bank report, together with other business before the House, by the 16th instant. There were many appropriation bills to be disposed of, in two of which, the canal and national road bills, his immediate constituents had a grave interest. Besides, there was other indispensable business which would occupy the whole time of the House prior to the day named. It would be almost ridiculous to take up the subject of the bank report, and attempt to dispose of it, if the House fixed the 16th of June as the day of adjournment.

He had had some conversation with his colleagues of the committee on the subject, and some of them concurred with him in the opinion that, if that day was fixed on for the day of adjournment, it ought to be considered as an unequivocal declaration by the House of a determination not to act upon the bank report. It would be impossible, in that case, to consider the subject, unless all other business should be postponed till the next session. He was bound to suppose that the resolutions would be adopted, and that they would elicit some discussion. If they were adopted, the measures consequent upon them would occupy some time. The fifth resolution proposed to authorize an attachment against twelve or fourteen individuals who had refused to testify, and committed other contempts against the authority of the House of Representatives. It would, perhaps, take the marshal or sergeant-at-arms a week to execute the process. Could it be imagined, then, that the House could dispose of so grave a subject in the time limited by the resolution, and

transact also the business before it that could not be postponed? Every one of the members was as capable as he was of judging how long the subject would be discussed. The report came up on Tuesday next. He should, therefore, think, if the House fixed upon the 16th instant for the adjournment, it ought to be laid upon the table.

Mr. WISE said he would not throw the lead till he heard the cry of land from the mast-head; and he therefore moved to lay the resolution for adjournment on the table.

The yeas and nays were demanded on this motion, and being taken, resulted as follows: Yeas 65, nays 141.

Mr. SPEIGHT said he had been in favor of the 16th, but was now induced to believe that the 23d would be more acceptable. He moved the previous question.

The House refused to sustain it: Ayes 72, nays 102.

Mr. SPANGLER moved to strike out the 23d and insert the 16th.

Mr. WILDE again inquired of the bank committee, whether the 23d would be late enough to afford time to discuss their report? If it was true that a contempt had been committed against the authority of the House; it would not, of course, adjourn, under the contempt. What court of justice ever pursued such a course? Mr. W. said his vote would be greatly governed by the opinion of the bank committee.

Mr. CROCKETT said he was very anxious that the 16th should be fixed upon. The proposal for that day had come from a very good quarter—a quarter where there was responsibility. He had never believed the gentlemen were in earnest about this bank report: and now they discovered it. They were manifestly anxious to get away, that they might leave the country excited against the bank, as a monster that had done something very mischievous. As the quarter from which this proposal had first proceeded was able to bear the responsibility, he was of the mind that they should have it; and he therefore demanded the yeas and nays.

Mr. CLAYTON having heard the gentleman from Maryland [Mr. THOMAS] say that he should consider a vote for early adjournment as a resolution not to take up the bank report, he had changed his mind; and now moved to reconsider the vote by which the 30th of June had been rejected for the day of adjournment.

Mr. LYTLE said he was in favor of the most distant day proposed. The honorable gentleman from Rhode Island [Mir. BURGES] had expressed the opinion that not more than three members would be found to stand by the resolut ons reported by the bank committee. He declared his resolution to be one of them. He had no disposition to blench. The opposition presses had long been teeming with injuntions on Congress not to adjourn; and similar language had been re-echoed in the other end of the Capitol; but no sooner did the committee return, and declare that they had been treated by the bank with contumely and scorn, than gentlemen were anxious at once to skulk. He, for one, was ready to keep his ground.

Mr. R. M. JOHNSON thought that, if the House consulted its own reputation, they would adjourn at as early a day as possible. There was no man in the country who thought they ought to stay much longer. He said this with the kindest feelings to every member; he meant not the least reflection on their motives or conduct. For himself, if he did not go on the principle of compromising his own opinions, out of regard to those of others, he would vote for adjourning on the 16th; but, as that was not acceptable to the House, he should now vote for the 23d—only, however, because others desired that day. He would venture to predict that, if the House should sit through all June and July, they would not accomplish more business of real importance than might well be done between the present time and the 16th. What was the present situation of the House? What sort of a spectacle did they present before the eyes of the people? That House, the popular branch of the Government, on which the last hope of the people rested, as being the last to shrink from the discharge of duty, the very last to shake the high opinion that had been formed of their industry, patriotism, and integrity--what sort of a spectacle did they exhibit to a country so distracted; and most distracted by the example of that House itself?

They had been now in session for six months, and what had it been thus far but literally a session of words? They had been engaged in measuring swords, and trying who possessed the greatest powers of intellect. This was always very pleasant to him; it gave him great delight to listen to the speeches of gentlemen; but, when it came to action, what had been done? One gentleman would rise, and put it to another, in the manner of the British parliament, to know what he intended to do?--and how long he expected to occupy on this or on that subject? This was only occupying time to no purpose.

He was far from disparaging any members of that House; he had the greatest respect and regard for them all; he ranked them all above himself; but he could not approve of this waste of time. He had used his own feeble endeavors--he knew they were always very feeble—to fix a day of adjourment two weeks ago. He did so because he was fully convinced that nothing would now be done till a day of adjournment was fixed. He had been drudging in Congress now for twenty-seven years, and he never had seen it otherwise. Gentlemen would never leave off speaking and go to acting till they agreed on a day to adjourn. He did not mean by saying this to insinuate that the Congress of the United States was less meritorious in this respect than other deliberative bodies; far, very far, from it; on the contrary, he thought it one of the most meritorious bodies on earth. He hoped he should not excite any unpleasant feelings by the remarks he felt it his duty to make. But his constituents were constantly writing to him--men on both sides, on all sides--"We pray you to come home: we can find out nothing in the papers of what you are doing: do come home; you have been there too long: we want to see you: we know you can agree on nothing--we know this: come home: perhaps you can do something next session." This was the strain of their letters. Mr. J. concluded by again professing his desire to accommodate gentlemen, and on that ground he should vote for the 23d of June.

Mr. CHILTON, after professing his uniform desire, from the first time the subject of adjournment had been stirred, to vote for the earliest day proposed, proceeded to advert to a remark of Mr. LYTLE, which, as he understood it, was, that no sooner did the opposition discover that an examination had actually been commenced into the affairs of the bank than they were inclined to skulk.

Mr. LYTLE denied having applied any such remark to the members of the House; he had spoken of the presses throughout the country.

Mr. CHILTON was glad the gentleman did not direct his remarks to the members of that House. He, for one was certainly not for skulking. He had voted against raising the committee at all, because he believed it would end only in strife. And he regretted that the gentleman from Georgia [Mr. WILDE] had manifested a disposition to carry on the warfare through the whole summer. Gentlemen ought to remember that they were the representatives of one people, who constituted but one great family, having an identity of interests. Did any gentleman believe that any good consequences would ensue, should they sit the whole summer through in angry debate upon the bank question? It might furnish materials for party warfare all over the country, and might, perhaps, put one party down and another up, but it would do nothing for the welfare of the country.

If the happy period should ever arrive when all would

unite their efforts for the common welfare, it would open a new era in the prospects of our free and happy institutions. But there was little hope of this. There remained but one course now to pursue. Suppress all agitation on questions respecting which they had differed, and, after doing as much as practicable of the most important business before them, return to their constituents, breathe a purer air, leave behind the polluted atmosphere of this place, and learn what were the views and feelings of those who had sent them here. As to doing all the business, it was hopeless; they never could get through it. The longer they remained, the more it would accumulate. He had no hope even of passing his own favorite bill for the pioneers of the Western forest. The gentleman from Tennessee [Mr. POLK] had notified the House that he should call up and press the passage of the bill fixing the deposites in the State banks; now he would put it to the candor of gentlemen to say whether, if that bill should pass the House, one single man on that floor believed it would ever become a law? How vain, then, was it to protract the session for the sake of passing it in one branch of the Legislature.

He would venture the prediction that, if the subject of the deposites was again opened, the House would not adjourn all summer. If ever the investigation of the subject was commenced, it would be thorough—that gentlemen might reckon upon it. He did not oppose this out of the least fear of the result; he would not ask a more certain triumph than would attend the investigation of the conduct of the bank. He had no idea of "skulking." But he deprecated the waste of time which would end in nothing.

Mr. BURGES, after sportively alluding to a saying of one of the ancients, that long treatises were written against the love of glory only that their authors might have the glory of affixing their names to them, and applying this remark to Mr. CHILTON's deprecating long speeches, he went on to say that he had changed his mind as to the day of adjournment. He had been in favor of the earliest day proposed; but since the bank committee had declared that they should not in that case have time for the investigation of their report, and acting on the resolution reported, he was for a more distant day; and he was the more earnest on this subject after hearing from the gentleman from Ohio [Mr. LYTLE] the intimation that he and his friends were disposed to skulk. Now he did not belong to a people who had been in the habit of skulking; they inhabited, to be sure, a small bit of land; but whenever their enemies sought them, they were always to be found.

The gentleman had explained by saying that he referred only to the press. Indeed, and had that House nothing better to do than to discuss the course of the newspapers! Who cared what these said? Some few of them, indeed, were highly respectable; but was this a matter for grave debate? About skulking newspapers? No: the remarks of the gentlemen, however worded, were aimed at the members on that floor. Now, he was for showing that committee that no man had a thought of skulking. He wanted to allow them full time to bring forward their report, and to act upon it. But they dare not do it. They had no intention of doing it. But they should not want the opportunity. He would sooner continue to sit here until the snow should fall than deprive them of the fullest opportunity to work their whole will in the premises. Let them bring the bank directors to the bar. Mr. B. would promise to make no speeches in their defence: if they were not able to defend their own cause, he would give it up.

It was, indeed, true that the House had spent some time in discussing principles, very much to the horror of the gentleman from Kentucky, [Mr. JOHNSON.] But he had heard of its being said by a shrewd thinker, that "words were things." If the people did not get their rights it should not be for want of their having been demanded; and, if wrong was done them, their oppressors should daily and hourly hear of the wrongs they had perpetrated. Talk of skulking. Who wished to skulk? He would give them full time to try the question out. Let them exhibit the spectacle of bringing to the bar of this House a company of men, who, for integrity, talents, weight of character, and financial skill, stood pre-eminent among all their countrymen; and let them make the most of it. Mr. B. would not stand between the committee and their vengeance; let the thunders of their wrath roll as loud as they would; let the bolt fall on whom it might. But of this let gentlemen be assured—there was a redeeming principle in the country that would paralyze the arm of oppression. They would find it so. But, in the mean while, let them, in heaven's name, have all the time they asked.

Mr. LANE said he had given several silent votes on this subject, nor should he now protract the debate, or say a word that might excite unpleasant feelings. Would to God he could hush every jarring sound; that he could banish from that hall every feeling of party, so that the members might have but one will, and that for the interests of their country alone. But were gentlemen prepared to adjourn, while every measure of importance to their constituents remained undone? What great measure had been yet adopted to restore public confidence, and banish the distress which pervaded the country? There was one bill which had been alluded to by the gentleman behind him, [Mr. CHILTON;] it was for the relief of the war-worn soldier, and was not yet acted on. Mr. L. said he might forget himself, but he never could forget the war-worn soldier of the forest.

The gentleman from Kentucky [Mr. JOHNSON] had said that he had never known much business done till a day of adjournment was fixed upon. This might be so; but if it were, was that a reason for fixing the day so early that nothing could be accomplished in the meanwhile? If they fixed upon to-morrow, would that accomplish the public business? Who could believe that before the 30th of June all the important bills could be reached, let the debate be ever so brief, and gentlemen ever so much in earnest? Mr. L. never would consent to adjourn till the bill fixing the deposites in the State banks should have been acted on.

He did not believe, with the gentleman from Kentucky, [Mr. CHILTON,] that nothing could be done with that bill. Could it not be amended? Might it not be so modified as to be rendered acceptable to gentlemen now opposed to it?

To one of the remarks of the other gentleman from Kentucky, [Mr. JOHNSON,] he heartily responded, viz: that this branch of the Legislature was the last hope of the American people. Yes, it was in that hall that the last knell of expiring Liberty would be heard; in that hall would be the last flutter of the American eagle; there the star-spangled banner, which now hung over his head, would wave for the last time; and there the last smile would be dashed from the countenance of that fair goddess who presided over the national destinies.

Mr. ANTHONY deprecated the plan of gentlemen taking up half an hour apiece in their remarks. He thought the 23d was the best and safest day. He held to the old adage, "*in medio tutissimus ibis;*" and it might be said with equal truth, "*in medio felicissimus ibis.*" He therefore demanded the previous question.

The House seconded the call: Ayes 106.

The previous question was then put and carried; and the main question, viz: "Shall the vote of the House, refusing to fix upon the 30th of June for the day of adjournment, be reconsidered?" was carried by yeas and nays, as follows: Yeas 123, nays 83.

So the House agreed to reconsider. The question then being on the 30th of June—

Mr. ADAMS said that he should change his vote, and was desirous of stating his reasons for doing so. He should now vote for the 30th, although he had voted for the 16th. From the day the resolution had been originally introduced, he had uniformly voted for the shortest term. When the gentleman from Indiana had agreed to postpone the motion, Mr. A. had been ready to vote for its passage; and this day, when the same gentleman had been requested by the chairman of the Committee of Ways and Means to modify his resolution by inserting the 30th, and had declined to comply with that request, Mr. A. had voted against the amendment proposing that day. He had done so, to be sure, with reluctance, because the request had been made by the chairman of the Committee of Ways and Means; and Mr. A. was willing that a gentleman who was charged, more than any other individual in that House, with its most important business, should have the full time he demanded. He had still been desirous to vote for the shortest period practicable, but it was in the expectation and with the hope that the House was to hear no more about the bill directing the deposite of the public money in the State banks, nor about the report of the bank committee; and, with such an understanding, he believed that all the most important business before the House might be disposed of by the 16th of the next month. But now, when he found that it was the intention of the chairman of the Committee of Ways and Means to bring up and to press upon the House the bill leaving the deposites in the State banks; and still more, when he discovered that entirely new matter, referred to in the reports of the investigating committee, was also to be introduced for discussion, he could not but conclude that the 30th of June would certainly afford a very short time—too short, indeed—for the discussion of matters so important to the public interest.

Let members consider what it was which this bank committee's report contained. This was new matter. The House had sent a committee of its own body to investigate the affairs of the United States Bank. Had they investigated them? No; they had done nothing of what they had been sent to do. Their report did not contain one word upon the subject to which their appointment had reference. No discoveries had been made; and the committee had returned with two reports, that of the majority containing complaints against the president and directors of the bank. This, he repeated, was wholly new matter. The committee charged the president and directors of the bank with having three times violated their charter; besides being guilty of another offence, the most heinous of all, seemingly, in the view of the committee—the offence of having treated themselves with disrespect. For this, the president and directors of the bank were to be brought to the bar of the House to be punished. The committee appeared as prosecutors; and they called upon the House to bring up fourteen of the most respectable citizens in all this country, to be punished. And how was this to be done? The Sergeant-at-arms, a slender and rather feeble man, was to go and corporeally to seize these individuals, and drag them before the House.

[Mr. CAMBRELENG here called Mr. ADAMS to order.

The CHAIR decided that he was in order.]

Mr. A. resumed: He said he had been assigning the reasons which, in his apprehension, justified him in changing his vote. He was vindicating himself to the House and to his constituents, for such change. He had stated that he had supposed that all the important business before the House might be gone through with by the 16th; and that all other matters, which were calculated only to produce dissension, and which must all eventually end in smoke, would be deferred. But he now heard that they were to have the bank bill called up, and all these matters forced upon the discussion of the House; and those who were in favor of an early adjournment were now told that they wanted to "skulk." He was actuated by no such feeling; but he thought it worse than useless to bring up these fourteen respectable citizens for such an offence as was alleged against them. If, indeed, he considered the question as one in which the honor of the Government and the authority and dignity of that House were concerned, he would be willing to stay here for years rather than omit or pass slightly over it. When he had been interrupted, he had been about to state some of the grounds of the opinion that a longer day would be requisite; and, in so doing, he was about to notice the new questions which were raised by the report of the bank committee. What a singular spectacle would it be, to see their Sergeant-at-arms bringing up these fourteen substantial burghers of the good city of Philadelphia, all in chains, to the bar of the House! It reminded him of the soldier in our revolutionary war, who, having captured three of the enemy with his own hand, and, being asked how he accomplished such a feat, replied that "he surrounded them." He supposed the Sergeant-at-arms was to surround these fourteen bank directors. He should admire to see the sight.

Here, then, was the question as to the right of the House to send for fourteen free American citizens to appear, not before a court of justice, but before this House; to be tried, not by a jury of their peers, but by the very party whom they were charged with having offended, and on the accusation of persons so exceedingly impartial as the majority of the bank committee; that House, themselves the offended party, to be their triers; and, having convicted them, to punish the offenders by the whole power of its vindictive justice.

Did any gentleman suppose that the right to do all this was a question to be settled without debate? What would the mothers of those citizens have said, could they witness such a sight, to see their sons brought up to the bar to be tried as criminals? And for what? Here was another question, a question of some compass, and certainly very debatable. He hoped these questions would all be tried. He hoped that this mystified question of contempts would be fully discussed, and the principle settled, for the benefit of after times.

He hoped that, if ever again they reported a resolution recommending the House to bring up the free citizens of this Union to be tried as malefactors at the bar of the House, they would at least have one good, sound, honest precedent to show for it. He hoped the whole matter would be a subject of full and grave deliberation; and that no crude or hasty decision would be had upon matters of so much weight and importance. He trusted there would be no calling for the previous question—no pressing forward, under a constant reference to the shortness of the time remaining—no continual reminding the House of the necessity of passing the appropriation bills. Appropriation bills! He would sooner lose all the appropriation bills for a hundred years to come, than that a question like this should be improperly decided. The chairman of the bank committee had told the House that these questions could not possibly be taken up and discussed by the 16th, and Mr. A. most fully concurred in the opinion. If the majority were determined to bring forward the subject, and submit it to a fair discussion, the 30th of June would be quite soon enough to adjourn. To the will of the majority he must submit. He should now vote for the adjournment on the 30th of June.

Mr. THOMAS said that it was with surprise he learned that, in his absence, the committee to which he belonged had been gravely, and he must say falsely, charged with the intention of forestalling public opinion. This

subject, however, he passed by. He now stood proudly before the House and the country, in relation to the transactions referred to in the committee's report, and which had been so improperly characterized. What had they seen? There could not a question of adjournment be introduced into the House, but they must have thrown into it all the influence of great names connected with the previous history of the country, for the purpose of proclaiming before the country opinions calculated to intimidate the members of that House, and preventing them from performing their public duty with that consideration, that calmness, and that firmness, which should distinguish freemen, and the sons of freemen. The gentleman from Massachusetts had mistaken the whole character and genius of our institutions, and of the American people, if he thought that referring to the respectability of the fourteen distinguished financiers of whom he had spoken in terms of so much admiration, would have the least influence in determining the course to be pursued towards them by that House. He yielded to no gentleman there in his estimation of the character and standing of these individuals. The House had been told that they were men of high attainments, of great financial learning and skill; but he asked whether that circumstance would weigh for one moment in a case where the House was called to act in the preservation of its own dignity. He considered all the citizens of this Union as the constitution considered them—strictly equal; he knew no difference between them; he would enforce the law against the Chief Magistrate himself, when the great interests of the country and the dignity and authority of its representatives were involved. In such a cause, he would arrest any one but the great God that made him. Why did gentlemen seek to alarm the country with the dread of some act of arbitrary power about to be perpetrated by the House of Representatives? The honorable gentleman would find the community not quite so forgetful as he seemed to think. Mr. T. had had the honor of a seat on that floor, and he was very sure the gentleman from Massachusetts could not forget it, when a precept was issued against the late Governor of Tennessee, (General Houston,) and when that individual was brought to the bar of the House. What had been his case? Was there any resistance to the process of the House? any obstruction to the execution of its precept? No such thing had been pretended. An assault had been committed on one of its members. And did the gentleman, at that time, require a long deliberation and discussion? or did he not promptly yield his assent to the issuing of the summons?

Mr. T. believed there were but about thirty-five votes in the negative on that question; although the alleged offence was only an assault. There was nothing very singular in the request of the bank committee. They had been directed to make an inquiry into the affairs of the Bank of the United States; they had attempted to do so, and had failed. They returned to the House, reported the failure; assigned the cause of it; and asked that the obstacle might be removed. This was all they had done. Let the House discharge the committee; let them retrace their steps; let the committee be exonerated from the trust imposed on them, and they had no desire to arrest these or any other individuals. They had not gone to Philadelphia under any ill feelings towards any one. They harbored no such feelings now. The attempt to alarm the public mind would prove vain. There was nothing novel asked or intended. No man who had served as a juror in our courts could fail to have witnessed the attachment of whole files of men, free citizens of this Union, a dozen at a time, for the resistance of process. Nothing was more common. There was nothing to alarm any body.

Mr. T. said he was conscious that he was trespassing on the time of the House, but his apology must be the great weight attached to the name of the gentleman from Massachusetts, and the effect of his opinions on the minds of many who had not considered the subject.

There had been an attempt to cast ridicule on the idea of the Sergeant-at-arms of this House going to arrest fourteen stout-bodied citizens, and bring them to the bar of the House. Surely the gentleman must have forgotten the character of our institutions, the character of the peaceable citizens of this republic. That character forbade the idea that they would attempt to rebel against the authority of the laws, and the majesty of their own Government. Besides, the character of the community in which these citizens resided, forbade the notion that, when a public officer went armed with the authority of that House, with the high power conferred upon it for the preservation of the blessings of free Government to ourselves and our posterity, came among them to arrest those who had resisted its command, they would stand tamely by and refuse to support, and to enforce the authority of their own representatives.

Mr. T. apologized. He had been unexpectedly called upon, and had spoken under great constraint. No one could be more disposed to cherish respect for the honorable member from Massachusetts than he was; and none more opposed to a premature discussion of the subject referred to. His apology must be found where he had already placed it, in what had been said by a gentleman whose name commanded so much influence. As to the day of adjournment, he preferred the 30th, and should vote for that day.

Mr. SUTHERLAND now moved the previous question, but withdrew his motion; which being renewed by Mr. HIESTER was negatived.

The resolution as amended, fixing the 30th of June for the day of adjournment, was then carried by yeas and nays, as follows:

YEAS—Messrs. John Q. Adams, Heman Allen, William Allen, Anthony, Archer, Ashley, Barnitz, Barringer, Bates, Beaumont, John Bell, Jas. M. Bell, Blair, Bouldin, Bull, Bunch, Burd, Burges, Bynum, Cambreleng, Carmichael, Chambers, Chaney, Wm. Clark, Clayton, Clowney, Coffee, Connor, Amos Davis, Day, Deberry, Denny, Duncan, Dunlap, Evans, Horace Everett, Ewing, Forester, P. C. Fuller, Fulton, Galbraith, Gillet, Gilmer, Gordon, Graham, Grayson, Joseph Hall, Hamer, Hannegan, Hard, Hardin, J. M. Harper, James Harper, Harrison, Heath, Henderson, Howell, Abel Huntington, Jarvis, Cave Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, King, Kinnard, Lane, Laporte, Lea, Leavitt, Lewis, Loyal, Lucas, Lyon, Lytle, Abijah Mann, J. K. Mann, Martindale, Marshall, Moses Mason, McCarty, McIntire, McKay, McKennan, McKim, McLene, McVean, Mercer, Miller, Robert Mitchell, Moore, Murphy, Osgood, Parks, Patton, Patterson, Dutee J. Pearce, Peyton, F. Pierce, Pinckney, Plummer, Polk, Potts, Selden, W. B. Shepard, Shinn, William Slade, Charles Slade, Sloane, Standefer, Stoddert, Sutherland, Francis Thomas, P. Thomas, Thomson, Tompkins, Turner, Vance, Vanderpoel, Van Houten, Vinton, Watmough, Wayne, Webster, Whallon, E. D. White, Elisha Whittlesey, Wilde, Wilson, Wise—129.

NAYS—Messrs. John Adams, John J. Allen, C. Allan, Banks, Barber, Baylies, Bean, Beardsley, Beaty, Bocker, Bodle, Boon, Briggs, Brown, Burns, Cage, Campbell, Carr, Casey, Chilton, Choate, S. Clark, Clay, Corwin, Coulter, Cramer, Crockett, Davenport, Deming, Dickson, Dickerson, Dickinson, Ellsworth, Edward Everett, Felder, Fowler, William K. Fuller, Gamble, Garland, Gholson, Gorham, Grennell, Griffin, Hiland Hall, Halsey, Hathaway, Hazeltine, Hiester, Hubbard, Jabez W. Huntington, Jackson, W. C. Johnson, Richard M. Johnson, N. Johnson, Lansing, Lee, Lincoln, Love, Mardis,

J. Y. Mason, McComas, McKinley, Muhlenberg, Page, Parker, Pierson, Pope, Ramsay, Schenck, Schley, Aug. H. Shepperd, Smith, Spangler, Speight, William Taylor, William P. Taylor, Turrill, Tweedy, Wagener, Ward, Wardwell, Fred. Whittlesey, Williams--83.

And then the House adjourned.

FRIDAY, MAY 30.

RESIGNATION OF THE SPEAKER.

After the reading of the Journal--

Mr. Speaker STEVENSON rose and informed the House that he had taken the chair this morning, though still laboring under severe and continued indisposition, for the purpose of opening the House, and preventing any delay in its business; and likewise for the purpose of announcing his determination of resigning the Speaker's Chair and his seat in Congress. This he proposed doing on Monday next at 11 o'clock. He had formed this resolution under a deep sense of duty, and because his state of health rendered it impossible for him (as must be apparent to the House) to discharge in person the laborious duties of the Chair; and he had therefore deemed it respectful and proper to give this early notice of his intention to retire.

The House then resumed the consideration of the reports of the committee on

THE KENTUCKY CONTESTED ELECTION.

Mr. HUBBARD (Speaker *pro tem.*) having stated the question thereupon, before the House, to be the amendment offered by Mr. JONES to that of Mr. BANKS, as heretofore stated--

Mr. BANKS said that, as it did not essentially alter the amendment submitted by him, he would accept the amendment of Mr. JONES as a modification thereof. He now wished to modify the resolution so as to make it read as follows:

"*Resolved*, That all the votes given by qualified voters, which were received in Lancaster, Garrard county, whilst Moses Grant, Esq. acted as one of the judges on the first morning of the election in August last, and those of a like character given on the second day of the election in the absence of the sheriff, ought to be estimated in ascertaining the result of the election.

That the votes of David McKee, Alfred W. Buford, Elijah Mount, Clayton Fitzpatrick, William R. Preston, R. L. Berry, Blackburne Leffler, Robert McKeown, Giles M. Ormond, and Lewis L. Mason, given in Mercer county, be counted; the first nine for R. P. Letcher, and the last one for T. P. Moore.

That the votes of Job M. Hall, Reuben Young, Vincent Inge, Jacob Coffman, William Jenkins, and the Reverend David Robertson, be taken from the number of votes allowed by the majority of the committee to Moore, in Mercer county, and added to those counted for Letcher.

That the votes of Eli Williams and W. Dawson, of Anderson county, and that those of William Connor, Charles Welsh, Thomas Harris, Montgomery Vanlandingham, Joseph Murrain, Levi Nunnery, Richard Curd, Anderson Hulet, Hickman Evans, Henry Wood, Richard White, of Jessamine county, be counted for Robert P. Letcher."

Mr. BANKS said that it was his intention to have submitted some remarks in support of his amendment, but, understanding that it was the wish of the gentlemen who were personally interested in this case to avail themselves of the privilege granted by the House, he would give way to them for that purpose.

Mr. LETCHER thereupon rose, and addressed the House in an animated and energetic appeal, in which he said that he rested his hopes of final success upon the confidence which he had in their honor and integrity, to come, as he believed they would, to a decision, uninfluenced by party: a course they are bound to take, if, from no other consideration than that, what was his case to-day might be their own hereafter, by the revolving of the political wheel. After which, he proceeded to controvert, at length, the arguments of the majority of the committee, and the evidence adduced in opposition to his claim to the seat for the 5th congressional district of Kentucky.

Mr. L. continued to speak till after three o'clock; and closed with expressing his thanks to the Committee of Elections for the good feeling toward him which had dictated the insertion of that resolution in their report which recommended a pecuniary allowance to himself, in the shape of pay and mileage; but expressed his unalterable determination not to accept any thing, unless the seat in this House should, by the decision of the House, be adjudged to belong to him. If the seat should be declared rightfully to pertain to Mr. MOORE, the pay was his also.

Mr. HAMER, observing that Mr. LETCHER had, in his address to the House, referred extensively to the testimony, and had presented a number of points of argument, said it would hardly be fair to require of Mr. MOORE, who was in feeble health, to reply without some interval of further preparation; and he therefore moved that the House do now adjourn. The motion prevailing,

The House thereupon adjourned.

SATURDAY, MAY 31.

NEW YORK AND NEW JERSEY BOUNDARY LINE.

Mr. BELL, from the Committee on the Judiciary, reported a bill, giving the assent of Congress to a treaty or compact entered into between the State of New York and the State of New Jersey, respecting the territorial limits and jurisdiction of said States; which was read twice and committed. After which, he said, as it was of importance to those States to have it passed as soon as possible, he hoped there would not be any objections to its being now read, that it might be ordered to be engrossed for its third reading.

The bill having been read—

Mr. J. Q. ADAMS remarked that, as this bill involved some questions of importance to the rights of the United States, he should wish there was some time allowed to examine it. He presumed it had been duly considered by the Committee on the Judiciary, but he desired to state, that the particular ground to which he had reference, for desiring an opportunity to examine the bill, was, whether there were not some rights, pertaining to the United States, concerned in the treaty and convention entered into between these respective States, and whether those rights were duly guarded by the present bill. He rose to ask of the honorable chairman whether, when this bill and convention were under the consideration of the committee, there had been any reference to the right of jurisdiction of the United States over this very boundary. He understood the bill was framed in pursuance of an agreement about the jurisdiction that should be possessed by them. In the treaty or compact which had just been read, the exclusive jurisdiction of New York and of New Jersey was spoken of, with frequent repetition, but without any reservation of the rights of the United States, who, he believed, had the most important jurisdiction over the waters in question. He had no intention to interpose any obstacle to the consummation of this agreement between the two States. On the contrary, he rejoiced to find that this long-standing controversy between them had at length been adjusted to their mutual satisfaction, but this was a subject in which the whole

Union had a deep interest, and rights not to be neglected or lost sight of. The bill had but just now been reported by the committee. The first knowledge he had of the purport of the convention was by hearing it now read. He hoped the chairman of the committee would consent to postpone the final action of the House upon the bill for a few days, and that, in the mean time, it should be printed.

Mr. BELL, in reply, said that the committee, in considering this matter, could not perceive that any rights vesting in the United States would be infringed or endangered by the assent of Congress to the agreement made between these States. However, he would suggest to the honorable member from Massachusetts, that every objection of the kind he alluded to, could be obviated by the insertion of a proviso in the bill to this effect, viz: "that nothing therein should derogate from the rights of the United States." He considered that the assent of Congress was only implied to such jurisdiction as the States themselves possessed. But he had no objection to let the bill lie over.

Mr. B. then moved that the consideration of the bill should be postponed until Thursday next, and that it should be printed.

Mr. PARKER rose to explain, that the object of the bill was to settle a dispute between these two States, of more than thirty years' standing, and it originally arose from claims set up by the State of New York to the exclusive jurisdiction over the waters of the Hudson river. They made this claim as having been in possession of this jurisdiction. The House, then, would perceive that the agreement did not, and could not, conflict with any rights possessed by the General Government. The obvious meaning of it, he said, was only to give to each State power to exercise jurisdiction, subject, of course, to that rightfully pertaining to the United States. The commissioners appointed by the States to settle this vexed business, with perfect unanimity had made the compromise, and with which, the respective Legislature of the States being satisfied, the assent of Congress was now all that was wanting to dispose of the controversy. As the agreement was one made between the parties, on a matter belonging solely to themselves, he hoped no objections would be raised to it.

Mr. BELL said he would not object to the desire for postponing the consideration of the subject; but as Thursday was, he now understood, set apart for Territorial business, he moved to have it postponed until Wednesday, withdrawing his first motion.

Mr. GILLET suggested that it should be made the special order for that day, which was finally agreed to.

KENTUCKY ELECTION.

The consideration of the report and counter-report from the Committee on the Kentucky Election having been resumed—

Mr. MOORE rose and addressed the Chair as follows:

Mr. Speaker: It was not my intention to have troubled your honorable body with any further remarks upon the subject under discussion, either orally or in writing; nor should I have deviated from my determination from any consideration merely personal. But, after permission given by the House, and the address made by my competitor, I might seem to be wanting in a proper respect for them, and for him, if not in duty to the people of the fifth congressional district of Kentucky, who have honored me with their support, were I to be silent.

It would be extreme vanity in me to expect to throw any new light upon the subject, which has been investigated by the committee with so much industry and patience, and has been discussed in this House with so much learning, eloquence, and talent. The principles on which I rely have been so clearly elucidated, and the facts so plainly set forth, that any thing I may say must necessarily be, in substance, but a repetition of what has been better said by others. Nor can I promise to enliven my argument by a single flash of wit. I have no talent of that kind, and, if I had, I should deem this an unfit occasion to exercise it. The subject is too grave, the principles and consequences involved too serious, to be made the occasion of levity and jest. If I cannot satisfy the House by the facts of the case, and arguments fairly deducible from them, that I am entitled to a seat among them, it would be disrespectful in me to attempt to laugh them into a decision in my favor. It is on their sober judgment only that I rely, and to that only shall I appeal.

My competitor vehemently deprecates the influence of party considerations in the settlement of this question. Mr. Speaker, he cannot desire more earnestly than I do that the question should be settled upon its merits. If each individual member of this House, forgetting the individuals claiming the seat in this case, and the political parties to which they belong, could find time to examine dispassionately the evidence in relation to every contested vote, they would find it would require no party feeling to give me the seat by a respectable majority of the legal votes actually given, without regard to the irregularities which affect the polls of Garrard county. If I am elected, it was not by a party vote. I made no appeal to party at home, and hundreds voted for me who differed with me on some of the leading topics which divide the parties of the day, and gave me their support from higher, and, to myself, more flattering considerations.

Much has been said about the sacred right of suffrage; and the intimation has been broadly, if not directly, given by a gentleman from Kentucky, [Mr. MARSHALL,] that I am attempting to violate it by the ground assumed by me, and sustained by a majority of the committee, in relation to this contest. This imputation I repel. The people of Kentucky, who know us both, and the parts we have respectively acted, will not believe that I am less devoted to free suffrage than the gentleman. I am too much one of the people myself, to wish them deprived of any of their rights, or in the least degree restricted in their exercise, beyond what is absolutely necessary to guard its purity and make it efficient. I owe all that I am, or ever expect to be in political life, to the partiality and suffrages of my equals—the common people of the county, and district of country, where I have the pleasure to reside.

In reference to the votes excluded by a majority of the committee, on the ground of the illegal manner in which a portion of the election was conducted in Garrard county, my competitor introduces the decision of the House in the case of Pryor Lea, as analogous. In the first place, the analogy of the cases is not perceived. Pryor Lea was elected by a majority of 217 votes over Thomas D. Arnold. Mr. Arnold contested his election on the ground of certain irregularities in the mode of conducting it; and proved that at one place the ballots had been deposited and kept in a large gourd-shell, instead of a ballot-box, as required by law. It was not pretended that the proper judges and other officers of election were not present, or that the votes had not been kept just as safely in the gourd-shell as they would have been in a ballot-box. But there were some members who thought otherwise, and insisted that a compliance with the very letter of the law ought to be exacted in all such cases, as appears by the negative votes attached to the following resolution, viz:

"*Resolved*, That Pryor Lea is entitled to retain his seat in the twenty-first Congress of the United States, as the representative of the second congressional district in the State of Tennessee."

Those who voted in the negative, are Messrs. John Bailey, John Campbell, James Clark of Kentucky, Richard Coke, jun., JOSEPH H. CRANE, B. W. Crowninshield, James L. Hodges, Thomas H. Hughes, J. W. HUNTING-

House in an animated and energetic appeal, in which he [satisfaction, but this was a subject in which the whole

ton, Ralph I. Ingersoll, Kensey Johns, jun., Robert P. Letcher, Henry C. Martindale, Isaac Pierson, Robert S. Rose, John Taliaferro, John W. Taylor, Joseph Vance, Samuel F. Vinton, Elisha Whittlesey.*—20.

Here is my competitor himself, and a number of those who now support him, voting that the freemen of Tennessee should lose their suffrages because they were deposited in a gourd-shell, instead of a ballot-box! Arnold was of the party to which he belonged, but Lea was not. I presume, however, that he and his friends were actuated, not by party considerations, but by high principle! But where is that high principle now? How is it that men who could not conscientiously make a ballot-box out of a gourd-shell, can now so readily make a judge of an election out of Grant, and a sheriff out of Marksbury? How is it that General Kennedy's opening the polls an hour before the lawful time, and unlawfully appointing a judge for that purpose—the taking of votes with no sheriff present—the going from the court-house to private residences to take votes—the permitting votes purposely given to me to be taken off after the voters had been coaxed to request it, and then given to my competitor--how is it that all these outrages, and many more, are highly proper with gentlemen who would have overturned a whole election when a political friend of theirs was to gain by it, because a portion of the votes happened to be deposited in a ballot-box composed of a gourd-shell, instead of one made of poplar or oak? Let the people answer.

When I reached home from Colombia, in June, 1833, I found the State of Kentucky newly cut up into congressional districts, as well calculated to bring particular individuals into Congress, and shut others out, as if it had been done with a single view to that object. My old district had shared the fate of many others, and the noble people who had so generously sustained me, were rudely separated from their former associates, and unwillingly forced into new political connexions. I do not impute such a design to the chief manager of that operation, [Mr. Hardin,] who is always as honest as he is respectable; but many of my too partial friends did not hesitate to say that this new and unnatural arrangement, so far as it regards the fifth district, had more reference to myself, individually, than to the feelings, wishes, or interests of the people. So it was that the county of Garrard, (the residence of Mr. Letcher,) the people of which were supposed to be almost unanimously opposed to the political views I entertained, was thrown upon the new district in which I reside, thus constructing a district, which, according to the result of the preceding election, contained a majority of 1200 votes against me. In this district, so arranged, I was a candidate but ten days before the election; and the result you have to determine. Possibly those who considered the probable effect of the new arrangement were somewhat disappointed, and I imagine that my competitor, if not his honorable friend, [Mr. Hardin,] who sees me here, and is now attempting to effect in another manner what his districting system failed to accomplish, would prefer by some odds that the district had been left as it was before.

On the first night of the election, I was about 200 votes ahead of my competitor in the district. A desperate struggle ensued on the part of his friends; and to that is undoubtedly to be attributed a large portion of the bad votes which appear on his poll. With the news that he was elected, the rumors as to the manner in which the election had been conducted at Lancaster spread into other counties. All the officers of the election were my warm political enemies; a majority of them were family connexions of my competitor; the polls had been opened at an unusual hour; the judges had been changed after the voting had been commenced; a deputy sheriff, who was acting alternately with the high sheriff as presiding officer of the election, had been riding through the county to bring out votes for Mr. Letcher; unauthorized persons had acted as presiding officers; and when some of my friends, though in a weak minority there, had ventured to remonstrate with the deputy sheriff when presiding, they were met by the brandishing of a deadly weapon. The judges had left the place of voting and taken a vote at a private house; they had permitted a voter who had intentionally voted for me to recall the vote after it was recorded, and give it to my competitor. These facts, exaggerated by rumor, which also alleged that an immense number of minors and other unqualified persons had voted in Garrard county, created in other counties a belief that I had been defrauded out of the election, and that the polls of that county, and particularly of the town of Lancaster, were no proper evidence of the vote of the county, and ought to be materially corrected, if not altogether rejected. It was natural that my ardent friends, who had been so secure in the result of the election after Monday, should be deeply impressed with the conviction that they had been disappointed by improper means.

Whether the sheriffs, when assembled to compare the polls, have power to reject or correct the poll-books, had never been well settled in Kentucky. If a poll-book should be presented by one of the sheriffs, which showed on its face that the votes recorded on it had not been taken on the days prescribed in the constitution or laws, at the place or by the regular officers designated for the purpose, but on another day, at another place, and by mere usurpers, it is not extravagant to suppose that it would be the duty of the sheriffs to reject it altogether. If for these defects united, they would possess such a power, it is reasonable to conclude they would possess it for a portion of them; and if they could reject a whole poll-book for notorious illegality, they surely might reject any part of it for the same cause.

I do not maintain that the sheriffs have this power, nor do I admit that they have not. I merely say that there is nothing extravagant in supposing that they possess it, and that this was the confident belief of many of my friends in the present contest. It was known that Mr. Grant had acted as judge at Lancaster, for a portion of the first day, and his name did not appear on the poll-book as judge either to the certificate or elsewhere. It was doubted whether, after he had been appointed, and commenced acting, the assumption of the place by Wheeler afterwards, was legal, and whether all Wheeler's acts were not void, and this affected the whole poll-book, the whole being certified by him. It was known that no sheriff had been present at Lancaster, during a part of one day, as expressly required by law; and the sensation created by a knowledge of that fact was not at all lessened by a knowledge of the service on which the deputy sheriff was employed. It was also known that very many illegal votes of minors and others had been given for Mr. Letcher, and under these circumstances, it was not at all extraordinary that my friend should think the sheriffs ought to inquire into the validity of the Garrard polls. It might have been a mistaken feeling, but it was an honest one. It was one of resentment at a supposed fraud upon the right of suffrage, which ought promptly to be redressed. The mode in which redress was attempted might have been wrong, but the motive was right.

It was undoubtedly this motive which induced the motion to inquire into the validity of the Garrard polls. And it was resentment at the failure of the motion, and at the approaching consummation of what he thought a fraudulent election, which induced Mr. Hocker, on the failure of the motion, to withdraw with the poll-books of Lincoln county. I shall not defend him in that step; but, know-

* The gentlemen whose names are printed in small capitals are now members of the House, and voted to sustain all the abuses which tended to promote Mr. Letcher's interest.

ing the character of the man, I shall not censure him. He has had enough of that already, as well here as in Kentucky. He may have erred; but it was from a noble motive. It was to prevent injustice, and not to do it. His error ought, therefore, to be treated like that of an honest man, as a majority of the committee are disposed to treat it. Indeed, in the facts now disclosed, and admitted by the committee, his conduct finds an apology sufficient to alleviate his offence. The majority of the committee have found, and I doubt not the House will sustain their finding, that Mr. Letcher was not justly entitled to the certificate he would have received, if Mr. Hocker had submitted his poll-book to the comparison.* This act has, then, prevented a wrong instead of doing one, however illegal it may be in itself; and it will now be understood that the abuse heaped upon him has derived its gall chiefly from the exasperation of those wrongdoers whom he cut short in the execution of their own illegitimate designs. It will be understood that, instead of destroying the right of suffrage, he has, in this instance, secured it. I am far from recommending his conduct to imitation or future practice; it would be too dangerous a discretion to intrust to sheriffs, and might lead to enormous abuses. I am only speaking of Alfred Hocker as a man, and of his motives in assuming so great a responsibility, and showing that those motives were not based on any wicked intent, and that his act has wrought no practical wrong. Thus far it is my duty to sustain him, and having been in all vicissitudes my devoted and unwavering friend, I should not deserve to have a friend if I did not, on this occasion, at whatever hazard or injury to myself, even the loss of a seat in Congress, perform that duty, and vindicate him against unmerited aspersions.

Mr. Hocker made a motion, at the meeting of the sheriffs, to go into an examination of the legality and validity of the Garrard polls, or a part of them. This motion was not unprecedented in Kentucky. In 1827, when a gentleman, now a member of this House, [Mr. CHILTON,] was a candidate in opposition to Mr. Calhoun, he had a majority of the votes given; but the sheriffs excluded the vote of a whole precinct for irregularity, and gave Mr. Calhoun the certificate. Both of the gentlemen started for Washington; but meeting at Louisville, they agreed to resign and submit the case again to the people. Whether right or wrong, the idea that sheriffs possess this power is not new, and the rumors in relation to the manner in which the election had been conducted in Garrard county were well calculated to suggest a resort to it. Mr. Hocker's motion, however, was negatived by the sheriffs, and then he withdrew with the poll-books of Lincoln county. It is proved, as far as such a thing can be, that he took this course at his own suggestion, and upon his own responsibility, in consequence of a perfect conviction that a palpable wrong to the people of the district would be consummated, if the certificate of election were given to my competitor. The votes of the four remaining counties were then compared, and three of the sheriffs united in giving me a certificate of election, specifying on its face that Lincoln county was not included.

I declined at that time receiving the certificate, and promptly proposed to my competitor that we should both resign our pretensions, and submit the question again to the people. This he thought proper to decline. His motives for doing so are not called in question; but after the making and the rejection of this proposition, it was not candid in his friends to charge me with attempting to deprive the people of their right of suffrage. There were assertions and imputations on both sides; it was alleged by my friends that gross partiality had been shown, and all the forms of law trampled upon in Garrard county, and that the apparent majority for Mr. Letcher was made up of spurious votes. On the other hand, it was alleged by his friends that he was about to be tricked out of an election which had been decided in his favor by a majority of the legal votes, and that I was about to claim a seat in Congress with that majority against me. How could the question have been so well settled as by the voters themselves at that time? There was abundant time before the meeting of Congress, and their interests in this House could not have been compromitted in the least degree. After the refusal to submit the question to the people, it appears to me the insinuation that I wish to deprive them of their right of suffrage comes with a bad grace from the friends of my competitor. Why is the question here at all? Is it because *I* refused to let them say, by an unequivocal vote, whom a majority of them preferred as their representative? It was not my wish, or my fault, that the question was taken from them and brought here. It was not because I was unwilling to trust the people, that gentlemen have had an opportunity to exhibit their high regard for the right of suffrage on this floor. For all this they are indebted to my competitor. I was content to abide by a decision of the people; but he preferred appealing to this House. From the tribunal of the people to this tribunal, I was forced by him contrary to my will. To make you the tribunal, and occupy your important time with such a matter, was his choice not mine. But as I was at first ready to submit the question to the people, and, after that was declined, proposed to submit it to a number of gentlemen, a majority of whom had voted against me, I am also content that it shall be decided by the House of Representatives. As my competitor has forced me here from the tribunal I preferred; as he has compelled me to undertake the trouble and incur the expense of taking numerous depositions, and, as this affair has occupied months of my time, and deprived the fifth district of representation for many months, it is now but reasonable that the House should decide it.

The mode in which the friends of my competitor attack the report of the majority is ingenious; but it may lead the House to a decision which is contrary to the opinions entertained by a majority of its members, or involve it in a seeming contradiction. The majority make out my majority of votes over Mr. Letcher to be forty-nine, upon the basis of the governor's return, but forty-four upon the copies of the poll-books. Suppose it to be forty-four. It is alleged that the majority of the committee were wrong in striking off fifty-four votes from Mr. Letcher's poll, and sixteen from mine, on account of the illegal manner in which they were taken; and it is moved to restore them. This question may be decided in the affirmative by a majority which we will suppose to be ten votes. There are five votes for me on the Salvisa poll-book, which the minority say should be tranferred to Mr. Letcher; and let us suppose that a motion to that effect be carried by a majority of ten votes; but that this majority is composed of other members than those who made up the majority of the preceding question. The first vote would take thirty-eight from my majority; and the second, by transferring five from one side to the other, making a difference of ten, would give my competitor a majority of four. Now, is it not plain, that a majority of votes might thus be given to my competitor, when a majority of the members of the House believe that I have a majority, and am duly elected? Let us examine the matter a little further. Both of these questions must be decided against me to deprive me of the election. There are two hundred and forty members. Suppose that one hundred and twenty-five of them vote that the thirty-eight votes should be restored to Mr. Letcher, and one hundred and fifteen against it; and when the question

* This, the House has since solemnly decided, by sending the election back to the people. So that Mr. Hocker's view of the case is triumphantly sustained.

be put upon transferring the Salvisa votes, one hundred and fifteen of the same one hundred and twenty-five, and ten of the one hundred and fifteen vote for it, which would give a majority of ten also for that motion. By these votes it would appear that one hundred and fifteen believed me elected, on account of the thirty-eight Garrard votes, and ten more who were in favor of restoring these votes, would still think me elected, on account of the Salvisa votes; so that there would actually be one hundred and twenty-five who voted in favor of my election upon the general resolution reported by the committee, when, by cutting up the question, the majority might be given to Mr. Letcher by precisely the same number! To make the matter plainer, suppose one hundred and twenty-one vote in favor of restoring the thirty-eight votes, and that the same number vote for transferring the five votes; but there are only two members who vote in the affirmative on both questions. In such a case, the vote in favor of my election would be two hundred and thirty-eight to two; when, by dividing the question, a majority of votes would be given to Mr. Letcher? The more questions are raised upon classes, or individual cases, the more the probability and danger is increased that the House will be led to a result inconsistent with its own opinion.

Is it not apparent that the only mode of giving certain expression to the real opinions of the House, is to take the question directly as to which candidate is elected? It is a fair expression on that point, and in that manner only, which can do justice to the parties, or express the real sentiments of the House.

I give my adversaries credit for the adroitness of their mode of warfare; but I trust the House will not suffer the justice of my cause to be injured by this war of pickets and outposts. Let them come up in battle array, and decide the contest on the main question. Let the House say whether, in their opinion, I or my competitor is elected. Each will vote from his view of the whole case, and the true opinion of the majority, on the only essential question, will thus be ascertained, directly and unequivocally.

To me it is a new doctrine, that the time, place, and manner of voting, are immaterial in a Kentucky election, provided the voter have the personal qualifications required by the constitution. It has always been supposed, in that State, that to constitute a valid election, it must be held and the votes given, within the time, at the place, and in the manner, pointed out by the constitution. It has never been supposed that voters had an absolute right to record their suffrages on any other days than the first Monday in August, and within such hours of that day as may be prescribed by law. The constitution declares that elections shall be held on that day, and shall be continued three days, if any of the candidates require it. It does not prescribe what time of day on Monday the election shall be held; but the law has provided that the sheriff shall open the polls "by ten o'clock" in the morning, and shall not close them until "half an hour before sunset." Between these periods the people have an absolute right to vote, so far as regards time, which no man can rightfully deprive them of. The right to vote on Tuesday and Wednesday, or before ten o'clock in the morning, or after half an hour before sunset in the evening, depends on the conduct and discretion of others. Place is restricted, as well as time. The constitution says the elections in the several counties "shall be held at the places of holding the respective courts, or in the several election precincts into which the Legislature may think proper, from time to time, to divide any or all of these counties," (with a proviso that the election for counties shall not be held in the towns which are entitled to separate representation,) and the Legislature have enacted that they shall be held at the court-houses generally, and in every case where a precinct is established, they have by law directed at what houses the election shall be held. And there is an express prohibition in the constitution that no person shall be entitled to vote, except in the county or town in which he may actually reside at the time of the election. Will it be maintained that the freemen have a right to vote any where else than at those places prescribed by law, even on the first Monday in August? It has never been so considered in Kentucky. As to the manner of voting, the constitution declares that "the votes shall be personally and publicly given, *viva voce.*" In this manner only has it been heretofore supposed that any one had a right to vote. The time, place, and manner of voting, are therefore made essential to the validity of every election by the constitution itself, and the laws have come in aid of its provisions.

But this is not all. It is only after a citizen's right to vote has been ascertained, that he can give his suffrage in this time, place, and manner. The constitution extends the right of suffrage "to every free male citizen, (negroes, mulattoes, and Indians excepted,) who, at the time being, hath attained the age of twenty-one years, and resided in the State two years, or in the county or town where he offers to vote, one year next preceding the election." It is obvious that some mode of ascertaining whether persons offering to vote actually possess those qualifications is absolutely necessary; and accordingly, the constitution speaks of the "presiding officers of the several elections," and declares that "the privilege of free suffrage shall be supported by laws regulating elections," &c. Such laws, when passed, form part of the system as much as the constitution itself, and are equally obligatory.

The Legislature have passed laws "regulating elections," in compliance with this constitutional requisition; they have endeavored to guard the free suffrage of the qualified electors by providing ample means to exclude spurious votes. To that end, they have associated with the sheriff of each county two judges of election, who are to look at the voters as they stand at the polls. If any person offering to vote be not known to one of the three, then they are required to swear him as to his constitutional qualifications; and all voters are expressly required to vote "in the presence of the said judges and sheriff." This law, it must be remembered, was passed in obedience to the constitution, and is as valid as if it were a part of it. If a man, really qualified to vote, present himself to the judges and sheriff, and, being unknown to any one of them, should be required to take the oath prescribed by law, and should refuse, would he have any right to vote? Would the judges and sheriff have any right to let him vote? Would not the legal and constitutional inference be, that he was not a qualified voter? By prescribing the oath and requiring the officers of the election to administer it, the law requires the voter to take it as the proof of his qualification, and the condition on which he shall be permitted to vote. The requisition is constitutional and legal; and if he refuse to comply with it, he refuses to comply with a constitutional and legal prerequisite, and has no right to vote. As an additional security to the right of suffrage, it is required that every citizen entitled to it shall vote "in the presence of said judges and sheriff." This positive and unqualified requisition is evidently prescribed as a precaution against the admission of spurious votes. By requiring the vote to be given in the presence of those officers, the law makes it the duty of the voter to see that they are present when he offers to give his vote. If he do not take that precaution, and give his vote before unauthorized persons, or in the absence of one or all of these officers, he has not himself complied with the requirements of the law, and his vote is illegal upon the same principle that it would be if he had given it on the second Monday in August instead of

the first, at his private residence, instead of the place prescribed by law, or by a written ballot instead of *viva voce*. For neglect of the voters themselves to observe the requisitions of the law regulating elections, such votes would be illegal. In addition to this defect, the law considers all these observances necessary to prove that the citizen has a right to vote, and if they be omitted, that proof is wanting. Nor is this proof of a character which can be dispensed with, because it is expressly required by law. The meaning of the law is as plain as if it had been declared in so many words, that no vote shall be considered valid, unless given "in the presence of the said judges and sheriff," personally and publicly "*viva voce*." The fact of its having been given "in the presence of said judges and sheriff, is one of the legal and indispensable evidences of its validity, and in the absence of that proof it must be considered bad, however strong may be the other evidence of the citizen's right to vote. All such votes cannot, therefore, be pronounced bad, unless this House has the power to overrule and make void the laws of Kentucky regulating elections, passed in obedience to a constitutional injunction

No one denies that thirty-two votes were given for Mr. Letcher, and thirteen for me, at Lancaster, on Tuesday, the second day of the election, in the absence of the sheriff. One of the sworn and responsible officers whom the law provides for guarding and securing the right of suffrage, was not there. These forty-five persons, though required to vote in the presence of the judges and sheriff, gave their vote in the absence of the sheriff. Unauthorized persons were acting in that capacity, whose presence could give no validity to the proceedings, more than if there had been no person to represent him, and the judges and clerk had been proceeding by themselves.

It has been denied that the presence of the sheriff is of any importance, or that he has any active agency in conducting the election. It would seem to be sufficient to prove the importance of the sheriff's presence, that the law expressly requires it. In fact, his presence is more important than that of either of the judges. He opens and closes the polls, and is the presiding officer of the election. He has by law the same power to question a vote that either of the judges have. An oath is directed to be administered expressly to satisfy his doubts, as well as any doubts of the judges, and when the judges disagree in relation to a voter, he decides it. These facts are conclusive to show that his attendance is as important as that of a judge.

The voter is required to give his vote in the presence of the judges and sheriff. The law requires all three to be present. If he may vote in the absence of the sheriff, he may also in that of a judge. If the presence of one may be dispensed with, so may that of two or of three. The entire election may be left to the clerk, and all the securities provided by law to protect the right of suffrage disregarded and trampled under foot. Nay, the idea has been advanced, that "mere usurpers" may take in the votes, and that the vote taken by them ought to be admitted, if proved by other evidence to have been given by qualified voters. If this looseness be admitted, then may any person take a poll-book and travel over the country to every man's house, and there take down his vote a week after the election, and these votes, if proved to have been given by qualified voters, must be admitted. The time, place, manner of voting, and all the officers of the election prescribed by the constitution and laws, may be set aside and annihilated. It cannot be possible that the House will sanction a principle which would effectually break down all the safe-guards of elections, and enable men to bring poll-books here, as they sometimes do memorials, containing hundreds and thousands of names which are not to be found in the towns and counties from which they purport to come.

The majority of the committee have reported, and I maintain, that the votes given at Lancaster on the morning of the first day of the election, while Moses Grant acted as judge of the election, are illegal, and ought not to be counted, because Grant was not legally appointed a judge of the election; and those votes are certified by another person, as judge, who was not present when they were taken. The law and the facts of this case have already been stated by me in a printed argument, addressed to the members of the House, as follows, viz.

"The election law of Kentucky provides that the sheriff, or other presiding officer, shall, on the day of every election, open the polls by 10 o'clock in the morning," and "continue the same open until at least one hour before sunset."

"The justices of the county court shall, at their court next preceding the first Monday in August, in every year, appoint two of their own body as judges of the election then next ensuing; and also a person to act as clerk. And in case the county court shall fail to make such appointments, or the persons appointed, or any of them, fail to attend, the sheriff shall, immediately preceding every such election, appoint proper persons to act in their stead."

"The judges of the election, and clerk, before they proceed to the execution of their duty, shall take the oath prescribed by the constitution; which shall be administered by any justice of the peace. They shall attend to receiving the votes until the election is completed, and a fair statement make of the whole amount thereof."

"The county court of Garrard county appointed Isaac Marksbury and William Wheeler to act as judges of the election in August, 1833; and A. McKee to act as clerk. Marksbury became a candidate for the Legislature, and declined serving. Wheeler did not decline serving. On the morning of the first day of the election, about nine o'clock, the sheriff appointed Lewis Landrum and Moses Grant to act as judges—the latter only until Mr. Wheeler should come in—opened the poll-books, and proceeded with the election. About ten o'clock Wheeler appeared. Grant left his seat, Wheeler took it, acted through the election, and united with Landrum in certifying the whole poll, as well the votes taken in the presence of Grant as in his own."

I can scarcely hope to add any thing to the suggestions heretofore made by me on this point. Can any one believe the law intends that the sheriff shall open the polls at any time before ten o'clock that he pleases? Where does he get the power? Is it derived from the constitution or laws? There is not a syllable in either conferring such a power on him. He is but one of three whose presence the law requires at the opening of the polls. He must have a court to preside over, before he can open the polls as "presiding officer." How is that court to be made up? The law answers, and tells us it is to be composed of two judges, appointed by the county court, to sit with the sheriff. If his court be in attendance, he may open the polls at any time before 10 o'clock, with their concurrence; but if they do not attend before 10 o'clock, then he shall appoint other judges, and proceed with the election. The great object is, to afford the freemen an opportunity to exercise securely their right of suffrage. As the best means of effecting this object, it is provided that the management of the election shall be vested, not in the hands of the sheriff, or persons appointed by him, but in those of persons designated for that purpose by the county court. But lest the opportunity to vote shall be lost to the people, by the failure of those persons to attend, the sheriff is commanded not to wait for them beyond 10 o'clock, but to appoint other judges himself, and proceed with the election. To my mind, this is the clear and only meaning of the law.

If the sheriff may, in the absence of the regular judges, open the polls before 10 o'clock in the morning, he has a

right to open them at any hour before ten. For party or personal purposes, he may open them at daylight or sunrise, and the regular judges and clerk not being in attendance at so unusual an hour, may put up the partisans or relatives of his own favorite candidate, and proceed with the election. Can it be conceived that such power is vested in the sheriff? Can he thus take the whole election in his own hands, in defiance of the regular judges appointed by the county court? Such, surely, cannot have been the intention of the law.

The high sheriff of Garrard, in appointing Mr. Grant, and opening the polls at 9 o'clock, must have known that he was acting illegally. Judge Ousley proves that when General Kennedy was a candidate himself, a few years ago, he protested against the polls being opened before 10 o'clock, and they were not opened. The conditions of Grant's appointment show that so far from supposing Mr. Wheeler had failed to attend, his attendance was confidently expected both by the sheriff and Mr. Grant. Mr. Grant would consent to serve only until Wheeler should arrive; and upon that condition the sheriff appointed him. The law knows no such condition. On the contrary, it gives the sheriff power to appoint a judge only when the regular judge fails to attend; and especially provides that the judges so appointed "shall attend to receiving the votes until the election is completed, and a fair statement make of the whole amount thereof." Grant was appointed on the express condition that he should not comply with the law; but should give up his seat and office during the election, and no statement make of any part thereof. He did so give up his seat, and did not certify to the poll-book, or any part thereof; nor does it appear by that book, or official document, that he ever served as judge of the election at all! The votes taken while he was acting as judge, are, like all the rest of the book, certified by Wheeler, who was not present when they were taken, and had no official knowledge that the men had ever voted. He certified to that which he did not officially know, and to that extent his official certificate is void, being no more than waste paper. Had he been absent during the whole election, could he have certified to the truth of the poll-book? If not to the whole, how could he do it to any part—to a hundred votes taken in his absence, more than twelve hundred?

Nothing is more clear, it appears to me, than that Grant's appointment was void, and Wheeler's certificate illegal. The votes taken by Grant were not taken in the presence of the judges and sheriff, as the law requires, nor are they certified by the persons in whose presence they were taken. All the arguments urged upon the preceding point apply with equal force to this, and it is unnecessary to repeat them.

I cannot, however, quit this point without remarking how completely "circumstances alter cases" with some gentlemen, in relation to the power of sheriffs in Kentucky. They are wonderfully startled at the idea of conceding to the assembled sheriffs the power to inquire into the validity of the poll-books or the legality of votes; but they do not hesitate to concede powers which would enable single sheriffs to manufacture poll-books, by setting up their creatures as judges and clerks, and opening the polls at unusual hours, when the well-meaning part of the community are yet at their homes. Such a pretension I consider infinitely more dangerous and reprehensible than Mr. Hocker's proposition. It is one which, I am sure, the law never intended to concede; and which the Legislature of Kentucky will find it absolutely necessary to take away, should it be conceded by this House.

Of the students of Centre College, at Danville, in Mercer county, fourteen voted at the congressional election for Mr. Letcher, and one for me. Several of these young gentlemen were from other States, and the remainder, with perhaps one exception, from other counties of Kentucky. The majority of the Committee of Elections decided that eight of those votes given for Mr. Letcher, and one given to me, are bad, for want of the residence required by the constitution and laws.

The courts in Kentucky have decided that the mere abiding in or out of the State for many years, without an intention to change the residence, does not affect the civil or political rights of any person. In addition to opinions expressed by the General Court, and Court of Appeals, of the State, we have that of the Federal Court, which, in one case, (that of Henry Banks,) decided that residence in the State of about fourteen years, I believe, did not make him a citizen.

When a young man goes from one State to another, for the purpose of obtaining an education, does it require any evidence to prove that he went for the purpose of making a settlement? And if he do not go for the purpose of making a settlement, he does not lose his rights as a citizen in the place whence he comes, nor does he acquire those rights in the place where he goes. Has it ever been conceived that young men who go from the South or the West to Philadelphia, New Haven, or Cambridge, for the purpose of acquiring knowledge, forfeit their rights in Georgia, Virginia, or Kentucky, and become citizens of Pennsylvania, Connecticut, or Massachusetts? Perhaps few would go in search of knowledge if the consequences were to be expatriation. The same principle applies to those coming into the State as to those going out. And the same principle, on a more limited scale, applies to those passing from one county of the State into another, for the same purpose. A citizen cannot possess the right of suffrage in two counties of Kentucky at the same time, any more than in two States. To decide that he has it in one, is to decide that he has it not in another.

But as to the right of students to vote at the places of their former residence, and not at the college or other literary institution where they may be temporarily located, the committee have decided it. The majority and minority both affirm that principle, in two several cases. Carey A. Wiley was a student at this identical college, but happening to be at his mother's, in Garrard county, at the time of the election, he voted there, returning to the college shortly afterwards—and his vote was pronounced good. In this case it was proved that he was twenty-eight years old, had sold his property in Garrard, had been at the college some years, was qualifying himself for the ministry, and had no intention to return to Garrard to reside permanently. A stronger case could not, probably, be found among the students at that college: and, had he been in Danville, his right to vote there would have been as complete as that of any of the rest. If he had a right to vote in Garrard county, he could not have had a right to vote in Mercer; and if he had no right to vote in Mercer, then the other students, similarly situated, had none. But he voted for Mr. Letcher in Garrard, and the entire committee pronounce his vote good there, which is as much as to say that it would have been bad if given in Mercer. The other students, under similar circumstances, not happening to be absent from the college, voted for Mr. Letcher in Mercer, and the minority declare their votes to be good! The principles affirmed by them, in these two decisions, are in direct contradiction to each other; and the only coincidence I can perceive is, that they all voted for Mr. Letcher. It cannot be intended to say that the essence of a student's vote, whether given at college or at home, consists in his having voted for Mr. Letcher; yet such is the inference which the opinions expressed by the minority would seem to authorize!

The other case in which the majority and minority have both decided the same principle is that of B. W. Higbee, who was a student at the law school in Lexington, and voted in Jessamine county, where his father resides.

He was twenty-eight years old, and had been in business in Ohio and elsewhere, and, finally, had located himself in Lexington, in the study of the law, returning to his father's occasionally. The facts are similar, and the principles precisely the same as in the cases of C. A. Wiley and the other Danville students.

That the minority have not proposed to take these two votes from Mr. Letcher, at the same time they would restore to him those of the students who voted for him at Danville, only proves that they did not advert to these cases; for it is impossible to conceive that they intended to affirm the right of students to vote for my competitor, wherever they may be.

Independent of every other consideration, I do not think it just in itself, nor that it will be very agreeable to the people of my district, or any other in the United States wherein colleges are situated, to see a parcel of foreign young gentlemen, without an interest or feeling in common with them, introduced into their elections to influence and control their right of suffrage. It is enough that these strangers have the benefits of protection and instruction, without setting up to elect representatives for the farmers and other permanent residents, whose interests are represented in Congress and the State Legislatures.

In relation to the changes which appear to have been made in the Salvisa poll-book, I beg to refer the House to the argument already presented by me. The sheriff and judges of the election at Salvisa had no motive to change five votes, and their high character is a sufficient guarantee that the changes, if by them, were made honestly and justly, and in correction of errors. In my printed argument I have made copious extracts from a report presented by a distinguished lawyer, [Mr. B. Hardin,] as the organ of the committee of the Senate of Kentucky, in a contested election between Mason and Williams, in which the point is decided, that no parol evidence can be admitted to prove that a man voted otherwise than is shown by the poll-book. Here Mr. M. read the following extracts from the report of Mr. Hardin:

"Robert Rayburn intended to have voted for Williams, but his name was set down for Mason. The committee would not permit his vote to be changed. Andrew Armstrong did not vote for Mason, as proved by a person who heard him vote, but the name was set down for Mason, and the committee would not permit it to be taken off.

"In the case of Robert Rayburn and Andrew Armstrong, the committee considered that it was a dangerous precedent, to permit a vote that was given one way to be changed by parol proof that it was given or intended to be given another way.

"John Moss voted for Williams: proved that he intended to vote for Mason. The vote was not changed, for the same reason that Rayburn and Armstrong's votes were refused to be changed."

The doctrine is, (and it is one which cannot be contested,) that, so far as relates to the giving of the votes for one candidate or another, the evidence of the poll-book must be taken as conclusive, and no parol proof can be introduced to contradict it. It is considered much safer to rely upon the integrity of sworn judges of high character, than to admit the evidence of individual voters to convict them of error.

On many points injurious to my interests I cannot but consider the decisions of a majority of the committee as erroneous. It was proved that the votes of three deaf and dumb persons were recorded for Mr. Letcher in Lincoln county. I have heretofore shown that the constitution requires all votes to be given in Kentucky *viva voce*, or with an audible voice; and as this is impossible for deaf and dumb persons, they are not constitutionally entitled to vote. As before, I do not now deny that educated deaf and dumb persons ought to possess the privilege of suffrage, but that the change which has taken place in their condition, since the constitution was formed, has not altered the constitution.

In the case of John Brady, also, the committee have done me manifest wrong, and affirmed a principle which I consider in the highest degree dangerous to the purity of elections. He voted for me on the first day of the election, intentionally, "publicly and personally," *viva voce*, and so his vote was recorded. After it was given, he fell in company with some of the friends of my competitor, who undertook to satisfy him that he had voted wrong, and "coaxed" or persuaded him to go and request his vote to be taken off. It was done at his request, and afterwards he voted for Mr. Letcher. Yet have the committee decided that this vote ought not to be restored to me!

Now, I maintain that, after a vote has been given, "personally and publicly, *viva voce*," as directed by the constitution and laws, and correctly recorded, neither the voter himself, nor the judges of the election, nor any other power known to the laws, have any control over it. The voter has as much right to come here and request a change of his vote, as he has to make such a request of the judges of the election ten minutes after his vote is recorded, and this House has the same right to change it now, as the judges would have then. The vote, when once fairly given, is no longer his own, but belongs to the public and the candidate for whom it was *bona fide* given. This point is so clear as to need only to be stated to carry conviction to every mind.

And what a scene shall we have in Kentucky, if men are permitted to recall their votes, and vote for another candidate, during the whole three days of election? It is unnecessary to dwell upon it; for it will occur to the imagination of all those who are acquainted with our system of elections and the practice under it. The vote of Brady I cannot doubt the House will restore to me and take from Mr. Letcher.

In the decision of most general principles I most fully concur with the majority of the committee; but in the application of these principles they have certainly, as was to be expected in so complicated a case, committed some errors; and, unfortunately for me, they are chiefly in favor of my competitor. As the House has undertaken to revise their work, and correct their errors, I must beg their attention to a few of these cases.

The vote of Levi Kid was struck from my poll as a minor. The only evidence upon which this decision was given is as follows, viz: (page 502.)

"The additional deposition of Robert McMillin, taken at the same time and place, to be read in evidence in the same case.

"Question by Letcher's counsel. Do you know L. Kid?

"Answer. I do.

"By same. Do you know his age?

"Answer. All that I know upon the subject is, that I executed a warrant upon said Kid, returnable on the fourth Saturday in November, upon a note executed some twelve months previous, at which time he put in the plea that he was not of age at the time of the execution of the note; and that said Levi Kid had his mother summoned at that time, and she swore that he was not of the age of twenty-one years until some time in September, 1833—I think the 14th.

"By same. Did Levi Kid vote at last election, and for whom did he vote?

"Answer. On examination of the poll-book, I find his name recorded for Moore.

"By same. Do you know of any other Levi Kid in this county?

"Answer. I do not. And further this deponent saith not. "R. McMILLIN."

The proof of Kid's minority here is not such as would be admitted in any court of justice, and such as I think ought not to be admitted before any committee, unless it were first shown that the mother had been summoned and refused to attend, or at least could not be found. Nor is there any proof that this was the Levi Kid who gave the vote standing in that name on the poll-book, other than the declaration of the witness that he knew no other Levi Kid in the county.

George Elliot voted for Mr. Letcher. The proof of his being a minor, and of his giving the vote standing in his name on the poll-book, is as follows: (page 30.)

"Also, the deposition of George Elliot, senior, at the same time and place, and for the same purpose.

"Question by Moore's counsel. Did your son, George Elliot, junior, vote for Mr. Letcher at the late election in Garrard?

"Answer. I do not know, from my own knowledge, whether he did or not; I think I have understood so from him and from others.

"Question by same. Was he under age at the election aforesaid?

"Answer. He is of age now; but at that time I rather expect he lacked a day or so of it.

"Question by same. You voted for Mr. Letcher yourself, did you not?

"Answer. I did.

"Question by same. Have you not, when asked about his age at the election, stated to any one that he was then of age?

"Answer. No, I did not; nor did I know any thing about his voting. And further saith not.

"GEORGE ELLIOT."

Here is the direct evidence of the father, proving the minority of his son, and his declaration that his son told him he had voted for Mr. Letcher. There is stronger proof of his minority, and stronger proof of G. Elliot being the person who gave the vote, than in the case of Kid: yet the committee decided Kid's vote for me to be bad, and Elliot's for Mr. Letcher to be good!

Moses Bryant voted for Mr. Letcher. The following is the evidence proving his vote to be bad: (page 429.)

"Also, the deposition of James Bryant, taken at the same time and place, and for the same purpose.

"Question by Mr. Moore's agent. Did one of your sons, Moses Bryant, vote at the last August election, in Garrard, for Mr. Letcher; and was he, or not, under the age of twenty-one?

"Answer. I don't know that he did; I was told that he voted. If he voted at all, he was not twenty-one years of age.

"By same. Do you not now see his name on a copy of the Garrard poll-book, for Mr. Letcher?

"Answer. I see it, on what I suppose is a copy of the poll-book, for Mr. Letcher. I do not know of any other Moses Bryant in the county. He was born the 8th of April, 1813, by the record in the Bible.

"By Letcher's agent. May not there be more than one person by the name of Moses Bryant in the county of Garrard, for all you know?

"Answer. There may be; but if there is I do not know it. And further saith not.

"JAMES G. BRYANT."

Here, again, was stronger evidence than in Kid's case, yet this vote was pronounced good.

John Shipman voted for Mr. Letcher. The following is the evidence in his case, (page 435,) viz:

"The deposition of C. Shipman, taken at the same time and place, to be read in evidence as before mentioned. This deponent, being of lawful age and duly sworn, deposeth and saith that he will answer such questions as may be asked him.

"Question by the agent of Mr. Moore. Did or did not your son vote at the last election for R. P. Letcher; and was he, at the time of voting, of age or not?

"Answer. My son, John Shipman, was not twenty-one years old at the late election for members of Congress for the fifth congressional district. I was not at home during the election, and do not know that my son voted; but I have heard that he voted for Letcher, at the precinct in Garrard county.

"By the same. Do you know of any other John Shipman, in the county of Garrard, but your son?

"Answer. I do not.

"C. SHIPMAN."

The committee decided this vote to be good.

The minority perceive no error in striking off Kid's vote from my poll, and leaving these three votes, and many more of a similar character, to Mr. Letcher, but, on the contrary, they propose also to take from me Richmond West! I beg the attention of the House to the evidence in this case, which is as follows, (page 308,) viz:

"The deposition of Walter West, of lawful age, taken at the same time and place, being first duly sworn.

"Question by Letcher. For whom did your son, Richmond West, vote at the late congressional election in the county of Garrard?

"Answer. I was told he voted for Moore; I was not present.

"By same. Was he twenty-one years old at the time of the last election?

"Answer. No, sir, he was not.

"By same. Do you know Shelton Harris? If so, say for whom he voted at the late election, and if he was twenty-one years old at the said period.

"Answer. I do not know how Shelton Harris voted, but he was not twenty-one years old at the time of the election.

"By Moore's counsel. Is not Shelton Harris your nephew? and do you know any other Shelton Harris in the county?

"Answer. He is my nephew, and I know no other Shelton Harris in the county.

"Question by same. Do you know that your son voted for Mr. Moore, otherwise than by report? and does not report say that your nephew, Harris, voted for Mr. Letcher?

"Answer. Report is all that I know; and, from report, my son voted for Moore, and my nephew for Letcher.

"Witness himself voted for Moore. And further saith not.

"WALTER WEST."

Here is proof of Richmond West's minority; but not the least, not even the declaration of the witness, that he knows no other Richmond West in the county, or that he gave the vote standing in his name on the poll-book; yet the minority, while they find no error in the decision of the majority upon the cases of Elliot, Bryant, Shipman, and Voris, who voted for Mr. Letcher, would reverse it in the case of Mr. West, who voted for me, though his vote is assailed by weaker evidence.

The inconsistency of the minority is rendered more glaring by the fact, that a vote given to Mr. Letcher is assailed in the same deposition by stronger evidence, and yet they do not find fault with the decision of the majority pronouncing it good. The evidence of the witness is the same against Harris as it is against West, with the addition that he does not know any other Shelton Harris in the county. Is it not very surprising that they should notice the case of West, and overlook that of Harris, when both are contained in the same short deposition, especially when the circumstances are stronger against Harris than against West, unless the real defect in West's vote was, that he voted for me.

That they should propose to take West from me, without a particle of proof that he gave the vote standing on the poll-book in his name, is the more surprising, when the committee had unanimously adopted the following resolution, understood to have been offered by the author of the minority report:

"*Resolved*, That when a name is found on the poll-books, proof that an individual of that name resides in the county who is a minor, is not sufficient to strike the name off the poll-book, and that some proof, direct or circumstantial, other than finding the name on the poll-book, will be required of the vote having been given by such minor, in the county or precinct where the vote is assailed?"

Yet, without any such proof, the minority now propose, in direct violation of the principle which they concurred in adopting, to take from me the vote of Richmond West, while they do not propose to molest various votes given to my competitor, although there is circumstantial evidence of the nature required.

But I should be glad to take the construction of this rule by the minority, as illustrated in the case of Richmond West. It would take from my competitor not only the five votes already referred to, but many others.

I beg the House to consider whether there is the best or any legal evidence of the minority of Levi Kid, and whether that vote ought not to be restored to me. And upon principles as sound both by the majority and minority, I claim that the votes of George Elliot, jr., Moses Bryant, John Shipman, Garret Voris, and Shelton Harris, be taken from Mr. Letcher.

A. Kavenaugh, who voted for Mr. Letcher, is proved, page 294, to have chosen John Boyle as his guardian since the election. Could any proof of his minority, at the time of election, be more conclusive? Is it not more direct and satisfactory than that in the case of Levi Kid? Yet his vote was pronounced good by the majority, and the minority see no error in it.

Equally inconsistent, and more extravagant, are the minority in relation to various votes in Mercer county. Let us take a few cases, by way of illustration.

The vote of Hayden Dean was struck off from Mr. Letcher, as a minor. His father refused to give testimony in the case, and the following evidence was that on which the committee acted.

Basil Prather, the sheriff of the county, testifies that his name is not on the tax lists of the county for 1833.

James Cunningham states that he heard the father of Hayden Dean say that Hayden was not old enough to vote at the last August election.

James W. Rucker states that Joseph Dean, father of voter, told witness and James Cunningham and Richard Holeman that his son Hayden was not old enough to vote at the August election, but that he was now old enough; that he was born in October, 1812, and that he had a record of his age.

Thomas Tomlinson states that Joseph Dean, the father of Hayden, told him that his son voted for Mr. Letcher at the last August election, and that he was born in October 1812; said Hayden told witness that he had voted for Mr. Letcher at Salvisa. Edmund Sutterfield told witness he knew Hayden Dean was not twenty-one years of age at the election; he knew it by his daughter Malinda's age.

With this evidence before them, the minority say it was wrong to take this vote from Mr. Letcher.

Now, let us see on what evidence they would take the votes of alleged minors from me.

Abner Duncan voted for me, and his vote is assailed on account of his alleged minority. The following extracts from the deposition of Henry N. Vandyke, is all the evidence upon which this claim of the minority is predicated, viz.

"By Mr. Letcher. Do you know whether a young man by the name of Abner Duncan, of this county, who it is said voted for Mr. T. P. Moore at the late election, was, at the time of said election, over or under twenty-one years of age.

"Answer. I have understood that said Duncan was under twenty-one years of age at said election.

"Question by H. N. Vandyke. You have spoken of Abner Duncan as not having been twenty-one years of age at the late congressional election. Have you a personal knowledge of that fact?

"Answer. I have no personal knowledge of that fact; I understood he was bound to Samuel Kellar until he was twenty-one years of age; and was to have a horse, saddle, and bridle, and suit of clothes; and I understood he was not to be free until next spring.

"Question by same. How far do you live from the father of said Duncan?

"Answer. About three or four miles.

"Question by same. Have you ever inquired of him (the father) as to the age of his said son?

"Answer. I have not.

"Question by same. Are you not pretty well acquainted with the father of said Duncan, and have you, or have you not, had opportunities since the late congressional election, of making an inquiry of the father as to his son's age?

"Answer. I am well acquainted with him, and have had opportunities of inquiring of him, if I had felt so disposed, but did not feel interested.

"Question by same. From whom did you receive information that Abner Duncan was bound to Samuel Kellar?

"Answer. I cannot say certainly from whom I received the information, but believe it was from James Smith."

Here is not a particle of proof, except vague rumor, when the father of the voter was at hand and might have been called on to testify. Yet the minority would take from me a vote upon mere rumor, and without calling on the father, when they say it was wrong to take one from my competitor, where the minority of the voter was proved by the declaration of his father, who expressly refused to testify.

Take another case: Samuel Grimes voted for me, and the minority insist that his vote should be struck off as bad, because he was not of age. The following is all the evidence which is adduced to prove it, extracted from the deposition of Henry P. Horine, page 187, viz:

"Question by Letcher. Do you or not know of any persons who voted for Thomas P. Moore at the late August congressional election in the fifth congressional district in Kentucky, that were, at the time of giving their votes, under the age of twenty-one years? If so, state who they are, where they voted, and how you know they were under the age of twenty-one years?

"Answer. George Smith has told me he voted for Moore at Harrodsburg, and that he was not, at the election, twenty-one years old. Samuel Grimes has told me, I believe, that he was not twenty-one years old at the election; I am not positive that he told me so. Joseph Grimes, also, whose name I have seen on the poll-book, is still younger than his brother; he has been raised and was born in my neighborhood. I am now between thirty-six and thirty-seven years old, and I have no doubt he is under twenty-one. I have seen on the poll-books the names of both the Grimeses: agreeably to the family record of our family's age, now at my mother's, and transcribed from the one made by my father, my younger brother is not of age. My brother's name is H. N. Horine, and he voted at Harrodsburg, as he told me, and for T. P. Moore; my brother is commonly called Nelson. Smith and both of the Grimeses I have known all my life;

they have been raised and live in my immediate neighborhood.

"Question by Moore. When and where was it that Samuel Grimes told you he was not twenty-one years old at the last election?

"Answer. I do not recollect the time, but it was since the election; I heard him say to Nimrod Harris that he was not twenty-one, as well as I can recollect, and Harris said he was not afraid to trade with him.

"Question by the same. Can you say positively that the conversation you heard was relative to Samuel Grimes and not to his brother Joshua Grimes?

"Answer. It was relative to Samuel and Joshua both?

"Question by the same. Do you know that the Samuel Grimes, of whom you speak, voted at all at the last election?

"Answer. To the best of my recollection I heard him say so.

"Question by the same. Are not there a good many other Grimeses in the county of Mercer that you have but little acquaintance with?

"Answer. There are others that I have but little acquaintance with?

"Question by same. May there not be more than one Samuel Grimes in this county?

"Answer. There may be, but I know only the one.

"Question by same. Does not the mother of Samuel Grimes live in this county at this time?

"Answer. She does."

And because the witness "believes" the voter told him since the election that he was not of age, the minority, in opposition to a rule adopted by their own votes, propose to take Samuel Grimes's vote from me, his mother and relations not having been called on, when they declared it wrong to take Hayden Dean's from Mr. Letcher upon the proved declarations of his father, often repeated, although the father was called on, and refused to testify!

There are many other voters charged to be minors who voted for me, whose votes the minority propose to strike off, upon evidence of this sort: such as D. B. Hughes, Reuben Lawson, H. N. Horine, T. Jennings, R. Jennings, &c. I beg the House to examine the evidence in those cases, and compare it with that in the case of Hayden Dean, whom they propose to restore to Mr. Letcher.

It is wonderful that, in this search after errors, the minority had not discovered that the majority had erred in not striking off several more votes from Mr. Letcher as minors. Take the case of Garret Voris. The following is the direct testimony of his own father, viz:

"Met in pursuance of adjournment, on the 21st, and proceeded to take the deposition of James Voris, to be read and used as evidence, as mentioned in the caption of the preceding depositions.

"Question by T. P. Moore's counsel. Is your son, Garret Voris, who voted for Mr. Letcher at the late August congressional election, twenty-one years of age or not?

"Answer. He is not yet twenty-one years old.

"Question by Letcher. Do you not know that your son did vote for Mr. Letcher at the election alluded to?

"Answer. I neither saw nor heard him vote, and only know it from hearsay.

"Question by same. May there not be other persons in this county of the name of Garret Voris besides your son?

"Answer. I know none; at least there are none in my neighborhood. There are some Vorises below this, on Salt river.

"Question by same. At whose instigation do you give this deposition, or have you done it voluntarily, without any inducement save your considering it to be right and proper you should do so?

"Answer. I have been summoned to come here to state his age, and came because I thought it proper, and for no other reason whatever.

"J. VORIS."

Can any one read this evidence and that produced in the three preceding cases, and not be astonished that the minority had not proposed to take this vote from Mr. Letcher?

Take another case. Richard N. Bolling testified as follows, viz:

"Question by T. P. Moore's agent. Do or do you not know of one or more illegal votes given to R. P. Letcher, at the last August election?

"Answer. Yes, I know of one, James Moorman. He told me himself that he voted for R. P. Letcher, and that he was not twenty-one years of age; and I do not know certainly of any other."

Here is certainly as strong evidence as that in the case of Abner Duncan or Samuel Grimes, and yet the minority see no error in permitting the vote to stand for Mr. Letcher!

There are other cases in Mercer county, in which the minority are equally inconsistent. Cornelius Deweese was struck off from Mr. Letcher's poll, because he did not reside in the county; and the minority insist that he ought to be restored. The following is a correct abstract of the evidence in his case, viz:

"Richard Thompson states: Cornelius Deweese told me that he removed from this county to Louisville, within the last three years; about a month before the late election he returned to collect a debt from the late Colonel John Thompson; remained till after the sale of Colonel Thompson's effects, when he immediately returned to his residence in Louisville; he distinctly told me that he had removed to Louisville to reside; he spent several nights at my house, and expressed impatience to return to his business at Louisville; I never knew any other family of the same name, or any man, excepting the family living on Colonel Thompson's farm; I do not know of my own knowledge, but have no doubt that he was at the late election. Colonel Thompson died on the 10th July last; he was a young man, unmarried, at the late election. I have heard that he married a few weeks ago. After the death of Colonel Thompson, there was no white person at the farm except Deweese; he remained there till after the election; but whether he was employed or not I do not know.

"He attended to the sick, but whether to the farm or property I do not know; Mr. Butler informed me that Deweese was employed by Colonel Thompson's successor to perform that service; but my impression is, that he remained to collect the balance due him; I may have misunderstood Mr. Deweese."

Here it is directly proved that Deweese lived in Louisville; had come to Mercer county to collect a debt, and was impatient to go home! Yet the minority say his was a good vote. Now let us see on what evidence they pronounce votes bad which were given to me.

Henry Gibson voted for me, and his vote was assailed on the ground that he was not a citizen of the State. The following extract from Mr. John Ligget's deposition is all the evidence by which the charge is sustained, viz:

"Question by Letcher. Are you acquainted with one Henry Gibson, late of this county, who voted, at the late congressional election in this district, for Thomas P. Moore? If you are, state whether said Gibson was or was not disqualified from voting on account of his not having resided in this State the length of time required by the constitution.

"Answer. I knew a man by that name, who was in Harrodsburg, Mercer county, at the late congressional election, and who informed me that he had voted for Thomas P. Moore. I am not positive that said Gibson told me himself of the length of time he had been in the State. I

know that his son did tell me that his father had lately removed from the State of Tennessee to Kentucky; so late, in my opinion, that he was not entitled to a vote in the latter State. He came to Harrodsburg last spring, as an entire stranger, so far as I know or believe; and it was my understanding that he (said Gibson) was just from Tennessee.

"Gibson was employed by Dr. C. L. Jones, as I understood, in preparing to build a new jail. Jones gave up the contract, and Gibson removed to the country. Witness now lives, and has resided for about the last three years, in Harrodsburg. I am impressed with the belief that said Gibson told me himself of the length of time he had been in this State."

The amount of Mr. Ligget's testimony, is mere vague indefinite hearsay, not a word of which is proved to have come from the voter himself. Yet the minority would strike off his vote for me, and suffer that of Deweese for Mr. Letcher to remain!

What is more extraordinary is, that on this point also the minority seem to have examined only one side of the question! If such vague and uncertain evidence was sufficient to require Gibson to be struck off from me, what shall we say of the following case in which the evidence is direct? Elijah Carlton is represented to have voted for Mr. Letcher, and the committee have suffered his vote to stand. The evidence which seems to me conclusively to prove it bad, is as follows, viz.

"Question by Mr. Moore's agent. Do you or do you not know Elijah Carlton, who lives on Alspaugh's old place, said to have voted for R. P. Letcher at the last August election?

"Answer. I know Elijah Carlton who lives at Alspaugh's old place, in this (Mercer) county; and I know that he removed from the State of Virginia some time last spring, or the early part of the summer."

Here is positive proof that the vote is bad. "I know," says the witness, "that he removed from Virginia some time last spring, or the early part of the summer."

Take another case. T. J. Tharp voted for Mr. Letcher. His vote was assailed by me on the ground that he was not a citizen of Kentucky. Hear what he says himself:

"Question by Moore. Did you, or did you not, vote in the State of Indiana, at the presidential election in 1832?

"Answer. I did.

"Question by same. Did you, or did you not, vote in this county (Mercer) at the last August election, 1833, for Robert P. Letcher, to represent the fifth congressional district of Kentucky in the 23d Congress?

"Answer. Yes, sir.

"Question by Letcher. How long were you a resident of this (Mercer) county, before the last election?

"Answer. I came here on the 6th of June, 1832.

"Question by same. Have you not ever since considered this your place of residence?

"Answer. Yes, sir.

"Question by same. Last fall, at the time you voted in Indiana, were you not absent from this county only temporarily, on a visit to your native State?

"Answer. Yes, that is all I considered it.

"Question by same. Had you left Indiana with an intention of not returning there to reside, when you came from that State to this?

"Answer. I left there with the design of residing there no more.

"Question by same. Did you not go last fall from this place there on a hired or borrowed horse, leaving your books, apparel, &c. here?

"Answer. I did; and also leaving here a very young brother, of whom I had the care.

"Question by same. Upon reflection upon the subject, have you not become convinced that the vote you gave in Indiana was not a good one?

"Answer. I don't pretend to judge of that.

"Question by Mr. Moore. Were you not born in the State of Indiana, and did you not reside there until you came to Kentucky?

"Answer. I was born in Indiana, and resided in that State up to the 27th of May, 1832.

"By the same. Did you, or did you not, come to Kentucky in the character of a student of law, or assume that character soon after, and as such reside in this county a part only of the time mentioned by you in a previous part of your deposition?

"Answer. I did assume the character of a student of law soon after my arrival in Kentucky, and returned to the State of Indiana about the 29th of October, 1832, to settle up some business, and there remained until some time in January, when I returned to Kentucky.

"By the same. Do you not believe that you are regarded by the community, and do you not so regard yourself, as a gentleman of liberal education and of respectable attainments?

"Answer. I presume that I am regarded as being as well educated and as well informed as other students of law of my age, and who have enjoyed similar opportunities.

"By the same. Have you heretofore, or do you now, consider this as your permanent residence?

"Answer. That is rather a hard question to answer. I have at this time no settled opinion; I may remain here for years, or I may not.

"Question by Letcher. If you have any residence at all, is it not in this county?

"Answer. Yes, sir."

Here the witness declares that he first came to Kentucky in May, 1832, not two years before the election of August, 1833; that he returned to Indiana in October, 1832, and remained there until January, 1833, so that, in August, 1833, he had not resided one year continuously in any one county of Kentucky; that, in November, 1832, he voted in Indiana, showing that he then considered himself and was considered a citizen of that State; that he was not a permanent resident of Kentucky, and did not claim to be; that the most he could say was, "I may remain here for years, or I may not." When he had neither the residence required by the constitution, nor the intention to make Kentucky his home, and had within a year exercised the highest privilege of a citizen in another State, how is it possible that his vote could be deemed legal? Yet the minority, in their search after errors, did not discover this most obvious one, and Tharp's vote is left standing for Mr. Letcher.

Among other errors into which the minority have fallen in Mercer county, they propose to restore to Mr. Letcher the vote of D. D. Miller, which does not appear ever to have been taken from him! I do not perceive that such a vote has ever been contested there. When such obvious errors have been committed, it is not surprising that they have so greatly increased Mr. Letcher's majority; and they show how unsafe a guide the minority would be for the House in its ultimate action on this subject.

Errors similar to those already exposed have been committed by the minority to a great extent, in the poll of Lincoln and Garrard counties; but it would be tedious to enter into a detail of them.

My conviction is that the majority of the committee have in reality committed more than two errors against me to one in my favor, and that such would be their own conviction upon a careful revision of their own work. I do not say this to censure them, for I appreciate the difficulty of arriving at correct conclusions upon such a number of cases, differing from each other by various shades, and from their multiplicity, making it impossible for the mind, in every one, to apprehend every circumstance in the testimony and give it due weight.

But if the labors of the committee are to be revised in a full House, and their decisions attacked in detail, in

justice to me, this body will be under the necessity of considering every question decided by the committee, as well upon single votes, as general principles. Should I lose any portion of the majority assigned me by the committee, upon a revision by the House of the principles on which they have decided, I should unquestionably gain upon a revision of their decisions upon single cases.

But surely the House will not undertake to take separate votes on every decision of the committee. If they act upon one point separately, they must, to do justice, act upon all. Nor would they, in that event, be certain to express, in the end, the real opinion of the House upon the final question; that can be done only by leaving each member to vote on the general result. All have the whole case before them—the reports of the majority and minority—the abstracts of evidence—the evidence itself—every argument and memorandum made by the parties and the committee. I cannot, however, pass from the report of the minority, without adverting to some cases of error and inconsistency in the opinions expressed by them upon certain votes in Anderson and Jessamine counties.

A palpable error, as I think, was committed by the committee, in taking from me the vote of Henry Long, of Anderson county. The committee had unanimously adopted the following resolution, viz:

"That all declarations or statements made by voters after the election, relative to the right of suffrage, be rejected."

The only proof of Henry Long's minority is his own declaration to G. B. Taylor, page 74, after the election. In reply to a question, Taylor says:

"I do know a young man by the name of Henry Long, and he told me since the August election, 1833, that he was not twenty-one years of age."

The occasion on which this declaration was made, and the circumstances which followed, are not at all calculated to give it weight. Taylor says:

"I purchased a note executed by said Long to Mr. Watts; and when I presented the note, he observed that he was under age, and would plead infancy; and this was the only conversation I ever had with him on the subject. I handed the note to an officer—he was warranted—and then he came forward and settled the amount before it ever came to a trial."

Put his declaration and his act together, and what is the natural inference? Why, that he said he was a minor only to avoid being pressed for his note; but when he could no longer escape, admitted that he was of age by settling it. The whole taken together, is rather evidence that he was of age, than that he was not.

Nor was there any evidence that he gave the vote standing in that name on the poll-book, other than the declaration of the witness that he knew no other man of that name in the county.

This vote was taken from me, therefore, in opposition to a principle settled unanimously by the committee, and upon evidence much weaker than that which I produced against the votes of George Elliott, Jr., John Shipman, Moses Bryant, Shelton Harris, Garret Voris, and many others. Yet the minority did not discover this error, which I request the House to correct.

The following will illustrate some of the inconsistencies and errors into which the minority have fallen in Jessamine county:

George Catlett voted for Mr. Letcher. John Catlett, page 111, testifies positively that his brother George was under age, and that he told him he voted for Mr. Letcher at the last election. This vote was permitted to stand as good, and the minority find no error in that decision.

John Murphy voted for Mr. Letcher. His vote was struck off by the majority; but the minority say it ought to be restored. Now let us look at the evidence

T. Dunbar, page 89, testifies that John Murphy was a journeyman shoemaker in his employment; told him, both before and after the time of the election, that he was not twenty-one years of age, but said he had voted for Mr. Letcher, and would whip any man that had his vote erased, and has now left the county. There are two John Murphys on the poll-book, and witness knows no other in the county.

Mordecai Howard, page 87, testifies that Murphy told him and Dunbar that he had voted for Letcher, and "would not be twenty-one years of age until some time next year."

W. S. Scott, page 110, testifies that there is one John Murphy only on the commissioner's books, and two on the original poll-book: witness knows but one in the county.

W. P. Daniels, page 111, same.

John Livingston, page 113, same.

Thomas Harris voted for Mr. Letcher, and his vote was struck off upon the following evidence:

James H. Lowry, page 89, testifies that Thomas Harris told him he was not of age, and he heard him vote for Mr. Letcher.

Samuel Mays, page 114, testifies that he was shown "the original family record of births," in which it is recorded that Thomas Harris was born on "7th August, 1813," and that the father, mother, and voter, all confirmed the record; and the latter said he "would not have voted if the judges had asked him a question about it."

J. P. Lowry, page 111, testifies that Harris told him he was under age at the time of the election, and he is not listed as a tithe on the book for 1833, but is for State tax. Yet the minority say this vote ought not to have been taken from Mr. Letcher!

John Scofield voted for Mr. Letcher, and his vote was struck off upon the following evidence:

Jeremiah King, page 103, testifies that he knows John Scofield was born in May or June, 1813; that Scofield told him, before the election, that he intended to vote for Mr. Letcher if he could; that he has understood he did, and sees his name on the poll-book; and that he knows no other John Scofield in the county.

James Carrol, page 103, testifies that John Scofield is his nephew, and was born in June, 1813; heard him say he voted for Letcher, sees his name on the poll-book, and knows no other John Scofield in the county.

Even the erasure of this vote is declared by the minority to be erroneous, and they propose to the House to restore it!

But the inconsistency of the minority appears still more glaringly in other cases.

Richard Curd voted for Mr. Letcher, and his vote was stricken off upon the following evidence, viz:

W. S. Scott, page 109, testifies that Curd's name is not on the commissioner's book, and he knows of no such man in the county.

W. P. Daniel, 112, same.

Samuel Mays, 114, same.

J. P. Lowry, page 153, testifies that "he knows Richard Curd; that he (said Curd) has been living down in the Green river country for two or three years last past; and at the time he voted, was here on a visit." But the minority say this evidence was not sufficient, and that this vote ought to be restored to Mr. Letcher.

Levi Nunnery voted for Mr. Letcher, and his vote was struck off on the following evidence:

W. S. Scott, 110, testifies that Nunnery's name is not on the commissioner's book, and he knows no such man in the county.

W. P. Daniel, 112, same.

Joseph Lowry, page 89, testifies that he is not on his tax-book, and he does not know him.

J. P. Lowry, 91, same.

T. T. Coger, 98, does not know him.

John Livingston, 112, same.

John Smith, 117, testifies that "he lives near Mrs. Foley's, in Fayette county, and knew a certain Levi Nunnery, whose name he sees on the poll-book of the late congressional election at Nicholasville, given for R. P. Letcher for Congress; he states that, to his own knowledge, said Nunnery was working at said Mrs. Foley's, in Fayette county, four or five weeks before said election, where he also boarded, and also worked on and boarded there, without interruption, as far as he knows and believes, for two or three weeks after the election."

Yet the minority say it was an error to strike off the vote upon this evidence, and asked the House to restore it.

Now, let us look at the other side.

William Rew voted for me, and his vote was assailed by the following testimony, viz:

J. P. Lowry, page 152, testifies that Rew's name is not on the commissioner's books, and he does not know such a voter in the county.

Thomas Reynolds, Jun., 144, testifies that Rew was residing at Henry Reynolds's, in Garrard county, on the 11th of July last; that he saw him at Nicholasville on the first day of the election, and having agreed with Moses Reynolds to try and prevent him from voting as a resident of Garrard, asked him if he had voted, and he said he had not; that Rew was afterwards, about the 11th of August, married in Jessamine; that he might, or might not, have changed his residence from Garrard to Jessamine between the 11th of July and the election; witness had seen him in Jassamine often, and remembers two places where he saw him.

Although every presumption arising from this testimony is, that Rew had become a resident of the county before the election, and there is not a particle of evidence to the contrary, the minority say this vote ought to have been taken from me by the majority.

They propose to take from me three others in Jessamine, one of whom, William Sutton, voted for Mr. Letcher, and has already been taken from him as a bad vote; and, as to another, J. Dixon, I do not find that any such vote was contested in the county. While I am gratified that the minority find one vote given to Mr. Letcher to be illegal, I cannot consent that they shall change it to me on that account, nor that they shall take from me votes never given in the county to any one.

There are three votes for Mr. Letcher, in Jessamine, as clearly proved to have been given by citizens of Woodford, as it is possible to prove any thing; and yet the committee have omitted to strike them off. The voters' names are, John McMurtry, Thomas Champion, and Henry Kirby.

Thomas Steele testifies that he has lived at his present place of residence since 1795; that John McMurtry is his son-in-law, and lives on his farm; that he has generally voted in Jessamine, but his house is within the limits of Woodford; that Thomas Champion also lives on his farm, still further within the limits of Woodford; and that Henry Kirby also lives in Woodford, although he has long voted in Jessamine.

I am at a loss to perceive why these votes were not struck from Mr. Letcher's poll. It is not possible by more direct and positive testimony to prove that they lived out of Jessamine county, and even out of the 5th congressional district. Their right to vote was clearly in another county and district, and to vote in Jessamine was not only a violation of law, but of the constitution. Their names are on the poll-book, and the fact that they usually voted in Jessamine is quite conclusive that they gave the votes. The only ground on which a show of defence can be set up for them is, that they had before voted in Jessamine, and that repeated violations of the constitution and laws make it lawful to violate them.

Most certainly these three votes ought to be taken from Mr. Letcher; and it is marvellous that the vigilant minority did not discover the error of deciding them to be good votes in Jessamine county.

Among the light matters which my competitor has introduced into his address to this House is the case of old Billy Stean, a worthy old foreigner, but not naturalized, whose vote my agent in Garrard proved to be illegal by his own deposition, with which he attempted to contrast that of John Findley, a British pensioner, who was permitted to vote in Mercer county. He was as pathetic in favor of the old soldier, as if he had some experience of the hardships and privations of the tented field. I have so much respect for brave old soldiers myself, that I would not have called in question Mr. Stean's vote, had I been acting in Garrard county in person, although it was notoriously in law a bad vote. But my agent and friends in Garrard, in the honest and faithful discharge of the services they had undertaken for me, procured evidence in relation to every vote reported to be bad, and included Stean's among the rest. The evidence was sent here not subject to my control, and it became the duty of the committee to decide on Stean's vote. It was not my fault that, by the constitution and laws of the country, and the decision of the highest judicial tribunal in it, they were obliged to decide that he had no legal right to vote. My competitor's complaints should be levelled against the constitution and laws, and the decisions of the supreme court, which permit no foreigner to exercise the right of a citizen, until he chooses to pass through the process of naturalization. As to Mr. Findley, he is a scholar and a gentleman, against whose right to vote—a right he had exercised for many years, there was no proof. The most attempted was to show that he received money from the British Government as a pensioner--a pretty conclusive evidence that he was considered a man of merit in his native country.

But my competitor's love for old soldiers seems to be confined to those only who voted for him. In Mercer county he assailed the vote of John George, another old soldier, who had lived in Mercer county upwards of thirty years, and the minority insist to the last that he ought to be struck off. This old man served during the whole of the revolutionary war, for which he is now receiving a pension, and he beat the first drum ever heard by me and probably by my competitor, as he also resided in Mercer county. I wonder that the recollection of that drum had not awakened the soldier in his heart, and induced him to spare the vote of old Mr. George. But George voted for me. That is not the kind of a soldier which excites his sympathies. Those are due only to the old soldier who, after all his other battles, is ready to go the death for Mr. Letcher.

There are many other points in the address and in the voluminous case before the House, which merit remark; but I fear I shall weary your patience, and therefore leave all the rest to your reflection and judgment.

Whatever may be the decision of the House, I cannot but express my gratification that this contest is approaching its close. To have been so long in a state of doubt and restraint, with my character assailed, my person assaulted, and my life threatened, has been inexpressibly painful to me. Your tables have borne witness to the rancor and malevolence with which I have been pursued. The vilest of fabrications have been gotten up, printed, and laid before you, with the evident object of poisoning your minds against me, and influencing the decision of this contest. I do not advert to these facts to enlist the sympathy of the House. No. I invoke stern justice. More I do not desire, and less I have no right to expect.

But I may, I hope, be allowed to say, that I owe infi-

nite obligations to both the majority and minority of the committee, who have so minutely examined the testimony, for a complete acquittal of all charges of improper conduct on my part, said or insinuated. Although neither the friends nor enemies who know me needed this testimonial to satisfy them of the injustice with which I have been pursued; yet it is most gratifying to be spontaneously furnished with an evidence so conclusive, to disabuse the minds of others of my countrymen, who have had less opportunity to observe the passing scenes in the 5th congressional district of Kentucky. Those who have labored to deprive me of my honor, as well as of my rights, are already defeated; and as the entire committee have vindicated the one, I trust with perfect confidence to this House to vindicate the other.

After Mr. MOORE had concluded his argument--

Mr. LEAVITT moved for the previous question; but the House refused to second the call: Ayes 88, noes 102.

Mr. HARDIN then rose, and went into an argumentative speech of considerable length and much animation, in opposition to the report of the Committee of Elections, and in support of Mr. LETCHER's right to a seat.

Mr. McKINLEY was unwilling to vote without giving his reasons for his vote; but, conscious that the House must be weary, he would either proceed now, or defer his remarks, as the wishes of the House might seem to indicate.

Mr. ADAMS, of Massachusetts, moved that the House adjourn.

The yeas and nays being demanded, were thereupon taken, and resulted as follows: Yeas 81, nays 121.

So the House refused to adjourn.

Mr. McKINLEY then took the floor, and argued the case as a naked question of law, which he contended it to be.

Mr. CHILTON ALLAN next obtained the floor, and had commenced his remarks, when he gave way for a motion to adjourn, which was made by Mr. WILLIAMS; but the yeas and nays being ordered, Mr. W. withdrew his motion.

Mr. ALLAN then resumed, and appealing to the magnanimity of the House not to compel a speech at so late an hour, renewed the motion for an adjournment.

The yeas and nays were demanded, and, being taken, stood as follows: Yeas 92, nays 106.

So the House refused to adjourn.

Mr. ALLAN said that, after this decision, he should forbear to throw himself upon the House, but would propose that there be a call of the House; and that then the question should be taken in succession on the several propositions reported by the committee.

The question being put on a call of the House, it was decided in the affirmative: Ayes 96, noes 58.

The House was thereupon called, and 210 members answered to their names. The doors were then closed.

Mr. HANNEGAN moved to suspend the call.

On this question, Mr. WHITTLESEY demanded the yeas and nays; whereupon

The motion to suspend was withdrawn.

The absentees were then called in part, and excuses were received in their behalf; when

Mr. GAMBLE moved to suspend the call.

Mr. MERCER demanded the yeas and nays; when the motion was withdrawn.

Mr. DICKSON renewed the motion.

Mr. MERCER demanded the yeas and nays; and they were ordered.

Mr. DICKSON said he would withdraw his motion until the remaining absentees should be called; which having been done,

Mr. WARD moved to suspend further proceedings in the call; which was agreed to.

Mr. BURD moved an adjournment; but it was negatived.

Mr. WILLIAMS suggested that the absentees had not all appeared, and moved that their names be again called.

The CHAIR decided it to be out of order.

The question was then put on Mr. BANKS's first amendment.

Mr. MARSHALL moved to amend it by adding the words "theological students at Danville;" which was agreed to.

Mr. BEARDSLEY conceiving that votes on the several amendments proposed would have no effect on the final result, because they would not change the opinion of those who dissented from them, moved the previous question; but the House refused to second the call: Ayes 89, noes 108.

Mr. S. McD. MOORE suggested to Mr. BANKS to modify his amendment, so as to move it only as an addition to the first resolution reported by the Committee of Elections, and leave the name of Mr. MOORE to be stricken out, or retained, upon the final vote.

Mr. BANKS assented to this, and accepted the modification.

After some conversation as to the best form of putting the question, the CHAIR stated it to be as follows:

The first resolution reported by the Committee of Elections is in the words following:

Resolved, That THOMAS P. MOORE be declared entitled to his seat as representative for the 5th congressional district of Kentucky.

The amendment moved by Mr. BANKS, was to add the words following:

"*Resolved*, That all the votes given by qualified voters, which were received in Lancaster, Garrard county, whilst Moses Grant, Esq. acted as one of the judges on the first morning of the election in August last, and those of a like character given on the second day of the election in the absence of the sheriff, ought to be estimated in ascertaining the result of the election.

"That the votes of David McKee, Alfred W. Buford, Elijah Mount, Clayton Fitzpatrick, William R. Preston, R. L. Berry, Blackburne Leffler, Robert McKeown, Giles M. Ormond, and Lewis L. Mason, given in Mercer county, be counted; the first nine for R. P. Letcher, and the last one for T. P. Moore.

"That the votes of Job M. Hall, Reuben Young, Vincent Inge, Jacob Coffman, William Jenkins, and the Rev. David Robertson, be taken from the number of votes allowed by the majority of the committee to Moore, in Mercer county, and added to those counted for Letcher.

"That the votes of Eli Williams and W. Dawson, of Anderson county, and those of William Conner, Charles Welsh, Thomas Harris, Montgomery Vanlandingham, Joseph Murrian, Levi Nunnery, Richard Curd, Anderson Hulet, Hickman Evans, Henry Wood, Richard White, of Jessamine county, be counted for Robert P. Letcher."

The question upon this amendment, at the request of Mr. JONES (of the Committee of Elections) having been divided—

The question was first put on agreeing to the first clause of this amendment, viz: "That all the votes given by qualified voters, which were received in Lancaster, Garrard county, whilst Moses Grant, Esq., acted as one of the judges on the first morning of the election in August last, ought to be estimated in ascertaining the result of the election."

And decided by yeas and nays as follows:

YEAS.—Messrs. John Q. Adams, Heman Allen, John J. Allen, Chilton Allan, Anthony, Archer, Ashley, Banks, Barber, Barnitz, Barringer, Baylies, Beaty, James M. Bell, Briggs, Bull, Burd, Burges, Cage, Campbell, Carmichael, Casey, Chambers, Chilton, Choate, William Clark, Clayton, Clowney, Corwin, Coulter, Crane, Crockett, Darlington, Warren R. Davis, Amos Davis, Daven-

port, Deberry, Deming, Denny, Dickson, Duncan, Ellsworth, Evans, Edward Everett, Horace Everett, Ewing, Felder, Foster, Philo C. Fuller, Gamble, Garland, Gholson, Gilmer, Gordon, Graham, Grayson, Grennell, Griffin, Hiland Hall, Hard, Hardin, James Harper, Hazeltine, Heath, Henderson, Hiester, Jabez W. Huntington, Jackson, William Cost Johnson, King, Kinnard, Laporte, Lay, Lewis, Lincoln, Love, Martindale, Marshall, McComas, McKay, McKennan, McKinley, Mercer, Miller, Moore, Patton, Pinckney, Potts, Ramsay, Rencher, Selden, William B. Shepard, Augustine H. Shepperd, William Slade, Sloane, Spangler, Stewart, Stoddert, William P. Taylor, Philemon Thomas, Tompkins, Turner, Tweedy, Vance, Vinton, Watmough, Wayne, Edward D. White, Elisha Whittlesey, Wilde, Williams, Wilson—112.

NAYS.—Messrs. John Adams, William Allen, Bean, Beardsley, Beaumont, John Bell, Blair, Bockee, Bodle, Boon, Bouldin, Brown, Bunch, Burns, Bynum, Cambreleng, Carr, Chaney, Samuel Clark, Clay, Coffee, Connor, Cramer, Day, Dickerson, Dickinson, Dunlap, Forester, Fowler, William K. Fuller, Galbraith, Gillet, Joseph Hall, Halsey, Hamer, Hannegan, Joseph M. Harper, Harrison, Hathaway, Howell, Hubbard, Abel Huntington, Jarvis, Richard M. Johnson, Noadiah Johnson, Cave Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, Lane, Lansing, Luke Lea, Thomas Lee, Leavitt, Loyall, Lucas, Lyon, Lytle, Abijah Mann, Joel K. Mann, Mardis, Moses Mason, McIntire, McKim, McLene, McVean, Robert Mitchell, Muhlenberg, Murphy, Osgood, Page, Parks, Parker, Patterson, Dutee J. Pearce, Peyton, Franklin Pierce, Pierson, Plummer, Polk, Pope, Schenck, Schley, Shinn, Charles Slade, Smith, Speight, Standefer, Sutherland, William Taylor, Francis Thomas, Thomson, Turrill, Vanderpoel, Van Houten, Wagener, Ward, Wardwell, Webster, Whallon, Campbell P. White, Wise—102.

So the first clause of the amendment was agreed to.

The question was then put on the second member of said amendment, viz: to add to the first resolution of the Committee of Elections, the following, viz: "And those of a like character given on the second day of the election, in the absence of the sheriff, ought to be estimated in ascertaining the result of the election."

And decided as follows, in the affirmative:

YEAS.—Messrs. John Q. Adams, Heman Allen, John J. Allen, Chilton Allan, Anthony, Archer, Ashley, Banks, Barber, Barnitz, Barringer, Baylies, Beaty, James M. Bell, Bouldin, Briggs, Bull, Burd, Burges, Cage, Campbell, Carmichael, Carr, Casey, Chambers, Chaney, Chilton, Choate, William Clark, Clay, Clayton, Clowney, Coffee, Connor, Corwin, Coulter, Crane, Crockett, Darlington, Warren R. Davis, Amos Davis, Davenport, Deberry, Deming, Denny, Dickson, Duncan, Ellsworth, Evans, Edward Everett, Horace Everett, Ewing, Felder, Foster, Philo C. Fuller, Fulton, Gamble, Garland, Gholson, Gordon, Graham, Grayson, Grennell, Griffin, Hiland Hall, Hard, Hardin, James Harper, Harrison, Hazeltine, Heath, Henderson, Hiester, Jabez W. Huntington, Jackson, William Cost Johnson, Richard M. Johnson, Benjamin Jones, King, Kinnard, Lane, Laporte, Lay, Luke Lea, Leavitt, Lewis, Lincoln, Love, Martindale, Marshall, Mardis, McCarty, McComas, McKay, McKennan, Mercer, Miller, Moore, Patton, Dutee J. Pearce, Pinckney, Pope, Potts, Ramsay, Rencher, Selden, William B. Shepard, Augustine H. Shepperd, William Slade, Charles Slade, Sloane, Spangler, Stewart, William P. Taylor, Francis Thomas, Philemon Thomas, Tompkins, Turner, Tweedy, Vance, Vinton, Wagener, Watmough, Wayne, Webster, Edward D. White, Elisha Whittlesey, Wilde, Williams, Wilson, Wise—131.

NAYS—Messrs. John Adams, William Allen, Bean, Beardsley, Beaumont, John Bell, Blair, Bockee, Bodle, Boon, Brown, Bunch, Burns, Bynum, Cambreleng, Samuel Clark, Cramer, Day, P. Dickerson, David W. Dickinson, Dunlap, Forester, Fowler, William K. Fuller, Galbraith, Gillet, Gilmer, Joseph Hall, Halsey, Hamer, Hannegan, J. M. Harper, Hathaway, Howell, Hubbard, Jarvis, Noadiah Johnson, Cave Johnson, Seaborn Jones, Kavanagh, Lansing, Thomas Lee, Loyall, Lucas, Lyon, Lytle, A. Mann, J. K. Mann, Moses Mason, McIntire, McKim, McKinley, McLene, McVean, Robert Mitchell, Muhlenberg, Murphy, Osgood, Page, Parks, Parker, Patterson, Peyton, Franklin Pierce, Pierson, Plummer, Polk, Schenck, Schley, Shinn, Smith, Speight, Standefer, Stoddert, Sutherland, William Taylor, John Thomson, Turrill, Vanderpoel, Van Houten, Ward, Wardwell, Whallon, Campbell P. White—84.

So the said second clause of the amendment was agreed to.

The question was then stated, that the House do agree to the third member of the said amendment, viz: to add to the first resolution reported by the Committee of Elections, the following, viz:

"That the votes of David McKee, Alfred W. Buford, Elijah Mount, Clayton Fitzpatrick, William R. Preston, R. L. Berry, Blackburne Leffler, Robert McKeown, Giles M. Ormond, and Lewis L. Mason, given in Mercer county, be counted, the first nine for R. P. Letcher, and the last one for T. P. Moore."

A further division of the question on this member was called for, so as to except therefrom the names of Blackburne Leffler and Giles M. Ormond.

And, on the question that the House do agree to the same, with the exception of the names of Blackburne Leffler and Giles M. Ormond, was decided as follows:

YEAS—Messrs. John Quincy Adams, Heman Allen, John J. Allen, Chilton Allan, Archer, Ashley, Banks, Barber, Barnitz, Barringer, Baylies, Beaty, John Bell, J. M. Bell, Briggs, Bull, Burd, Burges, Cage, Cambreleng, Campbell, Chambers, Chilton, Choate, S. Clark, W. Clark, Clayton, Clowney, Corwin, Coulter, Crane, Crockett, Darlington, Warren R. Davis, Amos Davis, Davenport, Deberry, Deming, Denny, Dickson, Duncan, Ellsworth, Evans, Edward Everett, Hor. Everett, Ewing, Felder, Foster, Philo C. Fuller, Fulton, Gamble, Garland, Gholson, Gilmer, Gordon, Graham, Grayson, Grennell, Griffin, Hiland Hall, Hard, Hardin, James Harper, Hazeltine, Heath, Henderson, Hiester, Jabez W. Huntington, Jackson, Wm. C. Johnson, King, Kinnard, Laporte, Lay, Lea, Lewis, Lincoln, Love, Loyall, Martindale, Marshall, McCarty, McComas, McKennan, McKim, McKinley, McVean, Mercer, Moore, Patton, Pinckney, Potts, Ramsay, Rencher, Schenck, Schley, Seldon, Wm. B. Shepard, Aug. H. Shepperd, Wm. Slade, Sloane, Spangler, Stewart, W. P. Taylor, Philemon Thomas, Thomson, Tompkins, Turner, Tweedy, Vance, Vinton, Watmough, Wayne, Webster, E. D. White, Elisha Whittlesey, Wilde, Williams, Wilson—119.

NAYS—Messrs. John Adams, William Allen, Anthony, Bean, Beardsley, Beaumont, Blair, Bockee, Bodle, Boon, Bouldin, Brown, Bunch, Burns, Bynum, Carmichael, Carr, Casey, Chaney, Clay, Coffee, Connor, Cramer, Day, Dickerson, Dickinson, Dunlap, Forester, Fowler, William K. Fuller, Galbraith, Gillet, Joseph Hall, Halsey, Hamer, Hannegan, Joseph M. Harper, Harrison, Hathaway, Howell, Hubbard, Abel Huntington, Jarvis, Richard M. Johnson, N. Johnson, Cave Johnson, S. Jones, B. Jones, Kavanagh, Lane, Lansing, Lee, Leavitt, Lucas, Lyon, Lytle, A. Mann, Joel K. Mann, Mardis, Moses Mason, McIntire, McKay, McLene, Miller, Robert Mitchell, Muhlenberg, Murphy, Osgood, Page, Parks, Parker, Patterson, D. J. Pearce, Peyton, Franklin Pierce, Pierson, Plummer, Polk, Pope, Shinn, Charles Slade, Smith, Speight, Standefer, Stoddert, Sutherland, William Taylor, Francis Thomas, Turrill, Vanderpoel, Van Houten, Wagener, Ward, Whallon, C. P. White, Wise—96.

So, as excepted, the third clause was agreed to.

The question was then put on so much of the said third member as relates to the names of the said Blackburne Leffler and Giles M. Ormond, and passed in the affirmative, as follows:

YEAS--Messrs. John Q. Adams, Heman Allen, John J. Allen, C. Allan, Archer, Ashley, Banks, Barber, Barnitz, Barringer, Baylies, Beaty, Jas. M. Bell, Briggs, Bull, Burd, Burges, Cambreleng, Campbell, Chambers, Chilton, Choate, William Clark, Clayton, Clowney, Corwin, Coulter, Crane, Crockett, Darlington, Warren R. Davis, Amos Davis, Davenport, Deberry, Deming, Denny, Dickson, Duncan, Ellsworth, Evans, Edward Everett, Horace Everett, Ewing, Felder, Foster, P. C. Fuller, Fulton, Gamble, Garland, Gholson, Gordon, Graham, Grayson, Grennell, Griffin, Hiland Hall, Hard, Hardin, James Harper, Hazeltine, Heath, Henderson, Hiester, Jabez W. Huntington, Jackson, W. C. Johnson, King, Kinnard, Laporte, Lay, Lea, Lewis, Lincoln, Love, Loyall, Martindale, Marshall, McCarty, McComas, McKennan, McKinley, McVean, Mercer, Moore, Patton, Pinckney, Potts, Rencher, Schley, Selden, W. B. Shepard, Aug. H. Shepperd, William Slade, Sloane, Spangler, Stewart, William P. Taylor, P. Thomas, Thomson, Tomkins, Turner, Tweedy, Vance, Vinton, Wardwell, Watmough, Wayne, E. D. White, Elisha Whittlesey, Wilde, Williams, Wilson--112.

NAYS--Messrs. John Adams, William Allen, Anthony, Bean, Beardsley, Beaumont, John Bell, Blair, Bockee, Bodle, Boon, Bouldin, Brown, Bunch, Burns, Bynum, Cage, Carmichael, Carr, Casey, Chaney, S. Clark, Clay, Coffee, Connor, Cramer, Day, Dickerson, Dickinson, Dunlap, Forester, Fowler, William K. Fuller, Galbraith, Gillet, Gilmer, Joseph Hall, Halsey, Hamer, Hannegan, J. M. Harper, Harrison, Hathaway, Howell, Hubbard, Abel Huntington, Jarvis, Richard M. Johnson, N. Johnson, Cave Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, Lane, Lansing, Lee, Leavitt, Lucas, Lyon, Lytle, Abijah Mann, J. K. Mann, Mardis, Moses Mason, McKay, McKim, McLene, Miller, Robert Mitchell, Muhlenberg, Murphy, Osgood, Page, Parks, Parker, Patterson, Dutee J. Pearce, Peyton, F. Pierce, Pierson, Plummer, Polk, Pope, Ramsay, Schenck, Shinn, Charles Slade, Smith, Speight, Standefer, Stoddert, Sutherland, William Taylor, Francis Thomas, Turrill, Vanderpoel, Van Houten, Wagener, Ward, Webster, Whallon, C. P. White, Wise—103.

So the excepted part of the third clause was also agreed to.

The question then recurred on the fourth member of the said amendment; when Mr. BANKS modified the said fourth member, by striking out the name of "Jacob Coffman," and, after the name of David Robertson, inserting the following: "being the persons whose votes were erased from the list of votes given to Robert P. Letcher, and transferred to the list of those given to Thomas P. Moore," so as to make the fourth member read as follows, viz: "That the votes of Job M. Hall, Reuben Young, Vincent Inge, William Jenkins, and the Rev. David Robertson, being the persons whose votes were erased from the list of votes given to Letcher, and transferred to the list of those given to Moore, be taken from the number of votes allowed by the majority of the committee to Moore in Mercer county, and added to those counted for Letcher."

And the question, that the House do agree to the said fourth member of the amendment, as modified, was decided as follows:

YEAS--Messrs. John Quincy Adams, Heman Allen, John J. Allen, C. Allan, Archer, Ashley, Banks, Barber, Barnitz, Barringer, Baylies, Beaty, James M. Bell, Briggs, Bull, Burd, Burges, Cage, Cambreleng, Campbell, Carmichael, Chambers, Chilton, Choate, William Clark, Clayton, Clowney, Corwin, Crane, Crockett, Darlington, W. R. Davis, Amos Davis, Davenport, Deberry, Deming, Denny, Dickson, Duncan, Ellsworth, Evans, Edward Everett, H. Everett, Ewing, Felder, Foster, P. C. Fuller, Fulton, Gamble, Garlard, Gholson, Gilmer, Gordon, Graham, Grayson, Grennell, Hiland Hall, Hannegan, Hard, Hardin, James Harper, Hazletine, Heath, Hiester, Jabez W. Huntington, Jackson, William Cost Johnson, King, Kinnard, Lane, Laporte, Lay, Lea, Lewis, Lincoln, Love, Loyall, Martindale, Marshall, Mardis, McCarty, McComas, McKay, McKennan, McKim, Mercer, Moore, Murphy, Parker, Patton, Dutee J. Pearce, Pinckney, Potts, Ramsay, Rencher, Selden, William B. Shepard, Aug. H. Shepperd, Wm. Slade, Jonathan Slade, Sloane, Spangler, Stewart, Stoddert, William P. Taylor, Francis Thomas, Philemon Thomas, Tompkins, Turner, Tweedy, Vance, Vinton, Watmough, Wayne, Ed. D. White, Elisha Whittlesey, Wilde, Williams, Wilson, Wise--119.

NAYS—Messrs. John Adams, William Allen, Anthony, Bean, Beardsley, Beaumont, John Bell, Blair, Bockee, Bodle, Boon, Bouldin, Brown, Bunch, Burns, Bynum, Carr, Casey, Chaney, Samuel Clark, Clay, Coffee, Connor, Cramer, Day, Philemon Dickerson, David W. Dickinson, Dunlap, Forester, Fowler, W. K. Fuller, Galbraith, Gillet, Jos. Hall, Halsey, Hamer, J. M. Harper, Harrison, Hathaway, Henderson, Howell, Hubbard, Abel Huntington, Jarvis, Richard M. Johnson, Noadiah Johnson, Cave Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, Lansing, Thomas Lee, Leavitt, Lucas, Lyon, Lytle, A. Mann, J. K. Mann, Moses Mason, McIntire, McKinley, McLene, McVean, Miller, Robert Mitchell, Muhlenberg, Osgood, Page, Parks, Patterson, Peyton, Franklin Pierce, Pierson, Plummer, Polk, Pope, Schenck, Schley, Shinn, Charles Slade, Smith, Speight, Standefer, Sutherland, William Taylor, Thomson, Turrill, Vanderpoel, Van Houten, Wagener, Ward, Wardwell, Webster, Whallon, Campbell P. White--95.

So the fourth clause, as amended, was agreed to.

The question then recurred on the fifth and last member of the amendment proposed by Mr. BANKS to the report of the Committee of Elections, as above stated.

Mr. GHOLSON put an inquiry as to the date of the testimony, which was replied to by Mr. JONES, of the the Committee of Elections.

Mr. CHILTON ALLAN replied and explained, referring to circumstances of law and custom in Kentucky.

Mr. ELLSWORTH addressed further inquiries to Mr. JONES, who replied and explained.

The discussion was further continued by Messrs. FOPP, HARDIN, and BANKS; when

Mr. MUHLENBERG moved to adjourn. Tellers were appointed, and the vote stood as follows: Ayes 104, noes 48.

So the House adjourned at half past eight o'clock.

MONDAY, JUNE 2.

As soon as the journal was read--

The SPEAKER rose and addressed the House as follows:

Gentlemen: I have attended in person to-day for the purpose of resigning, as I now do, the office of Speaker of this House, with which I have been honored for the last seven years, and of announcing to you the fact, that I have this day communicated to the Executive of Virginia my resignation as one of the representatives from that State in the present Congress. The dissolution, perhaps forever, of the intimate associations that have existed so long between us, is calculated to excite sentiments of a painful character. I feel it myself deeply and unaffectedly; and, in quitting a station in itself so honorable, one so repeatedly conferred, and in a manner so flattering; a station endeared to me by so many considerations

of a private and a public nature, I hope I may be pardoned in availing myself of this fit occasion of taking my leave of it and of you in person; of offering you my cordial and best wishes for your individual prosperity and happiness, and expressing publicly, and for the last time, my grateful acknowledgments for the kindness and confidence by which I have been so long distinguished and honored. Few, probably, that have ever filled this chair, have enjoyed more of this kindness and favor than myself; none have received, or will cherish it with feelings of warmer and more devoted gratitude. My obligations, gentlemen, are, indeed, deep to this House, and go where I may, or in whatever situation I may be placed, I shall continue, to the last hour of my life, to preserve and cherish those sentiments of profound respect and affectionate gratitude which your long-continued and unchanging kindness have so deeply impressed upon my heart, and which never can be impaired.

The duty of presiding over a great deliberative assembly like this is no easy task. The high and distinguished character of such a trust, and its arduous and important functions, cannot fail to inspire any incumbent with a just distrust of his own abilities and qualifications, whatever they may be. My administration of its duties for seven years, has not only taught me to know and feel this, but likewise to know how difficult, nay, impossible, it is for any man to free himself from error or censure in this chair, or give unqualified satisfaction. In times of profound tranquillity and repose, with united and harmonious councils, this has rarely, if ever, been done; amid the strife and storms of political and party excitements, it would be vain and hopeless to expect it. My period of service has, moreover, gentlemen, as many of you know, been distinguished by events especially calculated to render this station one of more than ordinary delicacy and embarrassment, as well as of increased responsibility and labor. How assiduously I have struggled to discharge the duties of this chair, in a manner worthy of it, and of myself; with what sincere zeal I have devoted my time and my talents, and even my health, to your service, I leave for others to decide; but this I hope I may be pardoned for saying, in justice and fairness to myself, and under a deep conviction of its truth, that I have endeavored to discharge my duty, not only with temper, justice, and moderation, but with a just regard for your individual rights and feelings, the character and dignity of this House, and my own honor. This was all that I promised when I came to this chair, and this I have endeavored to do; with what success I leave to you and to my country to determine.

I am very sensible, gentlemen, that, in such a long course of public service, and in an independent discharge of the arduous and multifarious duties of this chair, regardless of whom it might please or displease, my conduct may sometimes have been thought too harsh and rigorous; and I may often, unintentionally, have wounded the feelings of individual members upon this floor, and incurred their censure and displeasure. Under such circumstances, and while man continues what he is, we know that personal resentments are too apt to be indulged and to remain, and often perhaps difficult to be extinguished, even in the noblest minds; but revenge will not harbor there—higher principles than resentment, and better principles than revenge, will animate men whose thoughts and hearts are liberal and enlarged, especially where there is high intellectual ability and moral integrity. If, then, under the influence of momentary excitement and passion, if in the eagerness of controversy or the commotion of debate, any thing unkind or harsh should have been said or done, either on my part or on yours, let us, I pray you, forgive and forget it, and let us separate in the spirit of peace and good will. Let not this moment of our final separation be poisoned or embittered by feelings of personal resentment or political hostility. Let the spirit of peace and charity shed its holy calm around us, refreshing alike to the affections and the intellect, and let us blot from our minds and hearts every feeling of personal or party resentment, and separate like brethren of one household, and as the representatives of a free and virtuous people. I have myself no injuries to complain of, and no memory for them if I had; I came here to gratify no private friendships, to indulge in no personal hostility; and all that I have now to ask of you is to do justice to the motives which have governed me, and, when I am gone, to protect my character as the presiding officer of this House, which may now be regarded, in some measure, as the property of my country, from all unjust and unworthy imputations. To those who have known me longest and have known me best, to the liberal and just of all parties, and on all sides of this House, this appeal, I flatter myself, will not be made in vain.

One word more, and I have done. Although I am about to leave you, gentlemen, I shall never cease to regard this House, and every thing connected with it, with feelings of the deepest solicitude and affection. I need not remind you of the character and station which this House holds in the eyes of the American people. They justly regard it as the sanctuary of liberty, and law, and order; and justly repose on it with unlimited confidence and affection. In its deliberations and proceedings, is essentially involved the security of our free institutions. How much, gentlemen, will depend upon the manner in which its high duties shall be performed. Nor is it needful, I am sure, that I should admonish you that you are the representatives of our whole country, and not of a part; that our confederation can only exist and prosper under the influence of a wise, equal, and just system of legislation; by the ties of common interest and brotherly affection; by a spirit of mutual forbearance and moderation; and by cherishing a hallowed devotion to that liberty and Union secured to us by the blood of our common fathers. These are the foundations upon which alone our safety and security can rest.

Although our country of late, gentlemen, has been deeply and painfully excited, and our councils too greatly divided, may we not hope that the causes of excitement are daily passing off and subsiding, and that peace and tranquillity will again be restored to us? At such a time, and under such circumstances, is it not the duty of every wise, and liberal, and good man, in public or private life, without distinction of party, to unite for the purpose of healing these divisions, and giving peace and repose to the public mind? And should not those, especially, who wield the public councils pour oil upon this stormy sea, and still its troubled waters? I invoke you, gentlemen, to peace and harmony: to union and action for the common good. The people expect it; the prosperity and happiness of your country demand it. God grant that you may prove yourselves worthy of the high trust, and equal to the crisis; and that your labors may ultimately prove successful in giving peace and repose to our beloved country.

This is the last time that I shall ever address you from this chair; we separate this day, many, very many, of us, to meet no more. I pray to God to protect and bless you and our country; and I tender to you this my last and affectionate farewell.

After Mr. STEVENSON had concluded, and retired from the chair—

Mr. MERCER rose, and moved that the House do now proceed to

THE ELECTION OF A SPEAKER.

The motion was seconded by Mr. WILLIAMS, and the question being put by the Clerk of the House, the motion was agreed to.

Thereupon, W. S. Franklin, Clerk of the House, nominated Mr. McKinley, Mr. Forester, Mr. E. Whittlesey, Mr. Schley, Mr. Muhlenberg, and Mr. Bynum, to act as tellers.

The balloting having proceeded, and the ballots having been counted, the result of the balloting was reported as follows:

FIRST BALLOT.

	Votes.
For R. H. Wilde, of Georgia,	64
James K. Polk, of Tennessee,	42
Joel B. Sutherland, of Pennsylvania,	34
John Bell, of Tennessee,	30
Jesse Speight, of North Carolina,	18
James M. Wayne, of Georgia,	15
Lewis Williams, of North Carolina,	4
Edward Everett, of Massachusetts,	3
Thomas Chilton, of Kentucky,	2
Henry Hubbard, of New Hampshire,	2
Roger L. Gamble, of Georgia,	1
G. R. Gilmer, of Georgia,	1
Blanks,	4
	220

One hundred and eleven votes being, of course, necessary to a choice, and no candidate having received that number, the House proceeded to a second ballot, which resulted as follows:

For R. H. Wilde,	64
James K. Polk,	53
John Bell,	39
Joel B. Sutherland,	30
Jesse Speight,	16
James M. Wayne,	13
Edward Everett,	1
Henry Hubbard,	1
Roger L. Gamble,	1
G. R. Gilmer,	1
Benjamin Hardin,	1
Amos Lane,	1
Blanks,	2
	223

One hundred and twelve being necessary to a choice, a third ballot took place, which resulted as follows:

For Richard H. Wilde,	59
James K. Polk,	57
John Bell,	47
Joel B. Sutherland,	26
James M. Wayne,	15
Jesse Speight,	8
Henry Hubbard,	1
Wm. S. Archer,	1
David Crockett,	1
Blanks,	4
	219

The tellers announced that two ballots, in the same hand-writing, and for the same candidate, [Mr. Bell,] were found folded up together, neither of which, under the circumstances, were counted; and one hundred and ten members, the number necessary to a choice, not having voted for any one of the persons named, a fourth ballot took place, and resulted as follows:

For James K. Polk,	59
Richard H. Wilde,	49
John Bell,	49
James M. Wayne,	25
Joel B. Sutherland,	25
Jesse Speight,	4
Henry Hubbard,	2
Thomas A. Marshall,	1
Blanks,	7
	221

There still being no choice, a fifth ballot was resorted to, which exhibited the following result:

For James K. Polk,	67
John Bell,	57
Richard H. Wilde,	37
James M. Wayne,	30
Joel B. Sutherland,	16
Jesse Speight,	3
John Q. Adams,	2
Richard Coulter,	1
Henry Hubbard,	1
Blanks,	5
	219

No choice having been made,

Mr. LYTLE moved an adjournment, which was negatived; and the House proceeded to further ballotings, which resulted as follows:

For James K. Polk,	67
John Bell,	65
James M. Wayne,	36
Richard H. Wilde,	24
Joel B. Sutherland,	16
Jesse Speight,	1
	209

The seventh ballot resulted as follows:

For John Bell,	76
James K. Polk,	73
James M. Wayne,	26
Richard H. Wilde,	16
Joel B. Sutherland,	10
Jesse Speight,	3
Richard Coulter,	1
Blanks,	10
	215

The eighth ballot resulted as follows:

For John Bell,	97
James K. Polk,	78
James M. Wayne,	13
Richard H. Wilde,	11
Joel B. Sutherland,	9
Jesse Speight,	3
Horace Binney,	1
Blanks,	7
	219

There being still no choice,

A motion for an adjournment was made by Mr. Leavitt, of Ohio, and negatived: Ayes 76, noes 99; and the House proceeded to a ninth ballot, when the votes stood as follows:

For John Bell,	104
James K. Polk,	76
James M. Wayne,	8
Joel B. Sutherland,	4
Richard H. Wilde,	11
Jesse Speight,	2
Blanks,	6
	211

No person having a majority of the whole number of votes, there was no election.

The House then proceeded to the tenth ballot, which resulted as follows:

Whole number of votes, 218: necessary to a choice, 110.

For John Bell, - - -	114
James K. Polk, - - -	78
Richard H. Wilde, - -	11
Jesse Speight, - -	1
Joel B. Sutherland, - -	2
Blanks, - - -	6
	212

Whereupon, the honorable JOHN BELL, of Tennessee, having received the votes of a majority of the House, was declared duly elected Speaker. Messrs. J. Q. ADAMS and R. M. JOHNSON conducted the Speaker elect to the chair, when he delivered the following address.

Gentlemen of the House of Representatives:

With the greatest sincerity I declare to you, that although I am duly and gratefully impressed by this mark of the partiality and confidence of the House, and by no means insensible to the distinction intended to be conferred on me, it is not without some distrust of the wisdom of my course in accepting this station, which your choice has assigned me. Without the slightest experience in the chair, it may be justly apprehended that your selection of a presiding officer has been too much influenced by personal kindness and friendship. And I shall be quite happy if the public interest shall suffer no detriment through a defective administration of the duties of the chair. In ordinary times, and under ordinary circumstances, I could flatter myself that, by diligent application, I might be able, in a short time, to supply the want of experience, and to justify, in some degree, the confidence indicated by the House. That more than usual embarrassments must be encountered at this moment, by any incumbent of the chair, will be admitted by all. The impatience, not to say irritation—the natural result of a protracted session the excitement growing out of those sharp conflicts of opinion upon questions of public policy—conflicts exasperated and embittered at the present moment in an extraordinary degree—all present themselves to increase the difficulties and call forth the exertions of a new and unpractised incumbent of the chair. And I feel, gentlemen, that whatever exertions may be made on my part must be vain, without your forbearance—nay, that they must fail altogether, without your cordial support and co-operation. When I reflect how great are the interests connected with this House, its character and action—interests not of a day nor of a party, but of all time, of posterity, and of all the parties which are or ever will be arrayed against each other—and when I further reflect how much the character and action of this House depends upon a skilful, firm, and impartial administration of the duties of the chair, I confess I feel the deepest solicitude.

It is not so generally understood, I regret to believe, as it should be, in how great a degree the measures of a legislative assembly are modified and influenced by the manner of its deliberations. All will concede that if it shall ever happen that this body shall fall into disrepute, and fail to command the respect and confidence of the people, our institutions will be in the greatest peril. Not only the character of the House, the wisdom and efficiency of its action, but the existence of our admirable frame of polity itself, may be said to depend, in some degree, upon the order and dignity of the deliberations of this House. While, then, I entreat the indulgence of the House to my own defects, I earnestly invoke the assistance of every member of it in endeavoring to maintain and preserve, so far as depends upon the proceedings of this body, those great and primary interests of constitutional Government and freedom, in support of which, I am sure, whatever difference of opinion there may be upon points of construction, policy, or administration, there is not a heart here, nor an American heart anywhere, that does not beat high.

And then the House adjourned.

TUESDAY, JUNE 3.

Mr. J. Q. ADAMS rose and said that, as the previous day had been occupied with the election of a Speaker, instead of that business for which the day was specially assigned, viz: the presentation of memorials and petitions, he would remark that it was always and justly held as highly important to keep up the connexion between the representative and his constituents. It was known that many members had memorials to present, the postponement of which, now that the session was approaching its termination, must necessarily draw after it an inconvenience so serious as to be felt by almost every member in the House. He hoped, therefore, that this day would be assigned for their reception.

Mr. WILLIAMS said he must object to the suggestion of the gentleman from Massachusetts, in order that the House might proceed with the important business left unfinished—the Kentucky contested election.

Mr. DENNY moved a suspension of the rule for the purpose of receiving such petitions and memorials only as should not occasion debate.

The House refused to suspend the rule for that purpose, and proceeded to the consideration of the subject of the

KENTUCKY ELECTION.

The question pending thereon being the amendment proposed by Mr. BANKS, viz:

"That the votes of Eli Williams and W. Dawson, of Anderson county, and those of William Connor, Charles Welsh, Thomas Harris, Montgomery Vandlandingham, Joseph Murrain, Levi Nunnery, Richard Curd, Anderson Hulet, Hickman Evans, Henry Wood, and Richard White, of Jessamine county, be counted for Robert P. Letcher."

Mr BANKS modified it by striking out the names of Thomas Harris, Levi Nunnery, and Richard Curd; after which he advocated the amendment at length.

Mr. JONES supported the views of the majority of the committee in rejecting all these votes.

The debate was continued by Mr. MARSHALL, Mr. POPE, and Mr. HARDIN, when

Mr. HANNEGAN offered, as an amendment, a resolution to strike two names, viz: Benjamin Higby and Carey A. Wylie, from the poll of Mr. Letcher, and attach them to that of Mr. Moore. After some remarks, he consented for the present to withdraw it.

Mr. VANDERPOEL argued in defence of that part of the committee's report which struck off certain voters in Jessamine county from Mr. Letcher's poll.

Mr. CLAYTON, Mr. CHILTON ALLAN, and Mr. BURGES replied, reprobating the principle on which the votes had been stricken out.

Mr. S. McDOWELL MOORE requested a division of the question, so as to have the question first taken on the names of Eli Williams and Wade Dawson, and then on the residue of the names in Mr. BANKS's amendment.

Mr. HAMER spoke in defence of the committee's report, and in reply to the grounds which had been taken on the other side.

Mr. CHILTON next addressed the House in opposition, explaining the practice in Kentucky on the subject of votes given in elections, and the grounds on which they could be confirmed or set aside.

Mr. PEYTON took the side of the committee, insisting that the poll-book might be set aside by circumstantial evidence and strong presumption.

Mr. GAMBLE rose to inquire of the friends of Mr. Letcher, whether sufficient time had elapsed for him to collect positive testimony to rebut the negative testimony on which these voters' names had been stricken out?

Mr. WILLIAMS insisted that the votes were not to be set aside unless the testimonyof the judges of election as

well as the sheriff was produced; which had not been done.

Mr. MANN replied—insisting that the testimony of the sheriff was sufficient: he dwelt upon the great difficulty of forming any correct judgment on so great and confused a mass of testimony.

Mr. C. ALLAN replied to the inquiry of Mr. Gamble, as to the time enjoyed by Mr. Letcher to collect proof respecting his voters.

Mr. BEATY stated the manner in which the names of voters were often inserted on the tax books in Kentucky.

Mr. HUBBARD remarked that it had been his intention to have submitted, at length, his views upon the main resolution, but, for the last six weeks, such had been his situation, that it had not been in his power to have participated in the debate; and he would assure the House that he had not risen at this hour of the day, and at this stage of the proceeding, to go into any general discussion of the subject. He merely wished, in as brief a manner as practicable, to present a few considerations upon the immediate question before the House. It is now proposed to amend the main resolution reported by the committee, by adding to the list in favor of Mr. Letcher, the votes which appear to have been given for him in Anderson county, by two persons who were entered upon the poll-book, one by the name of Williams, the other by the name of Dawson, which votes had been rejected by the committee on the ground that they were given by persons who had no legal residence in that county on the first Monday of August last, the time when the election took place. And, sir, disguise it as you may, the real and the only question is, touching this point, does the evidence adduced satisfy our minds that no persons bearing those names could have had at the time of the election a legal residence in the county where they voted? Were there any such persons then residing within the limits of that county? If not, most clearly the committee did right in rejecting the votes which were given by them.

There is no member of this House who will not readily agree to this proposition. It is too plain to require argument; and, if such a fraud has been practised upon the right of suffrage, it became the bounden duty of the Committee of Elections to detect it, and to prevent its injurious operation in the case before the House. They have attempted to do this, and they have done it in a way and manner that leaves not a particle of doubt upon his mind, that their finding, in this particular, ought to be confirmed by the House. He had examined, with some attention, the reports of the majority and of the minority of the committee, and he had endeavored, from the arguments of the parties litigant, and from all the lights which had been shed upon the case, to form for himself an opinion. He had so done; and he felt no embarrassment whatever upon the immediate question now under consideration. What is the evidence? It is admitted that the names of Williams and of Dawson are to be found on the poll-book, and that these votes stand entered as having been given for Mr. Letcher; but is this fact conclusive? Is it not competent to contradict it by parol evidence? Is a poll-book a record of such a description that you cannot controvert it—that you cannot impeach it—that you cannot destroy its force by other testimony? Sir, those who contend for such a doctrine would find it difficult to sustain themselves. The law is not so. He would most freely admit that the record, (as it is called,) the poll-book, the mere entry of the names of the voters, is evidence, and evidence which, if uncontradicted, must satisfy the mind of every person, that such proceedings did take place, in the way, and in the manner, and by the persons, as the record purports to show; but it is not absolute, it is not conclusive evidence of the facts. It was evidence of a *prima facie* character; and not, as the gentleman from Pennsylvania was understood to say, beyond the power of being explained and controverted. It is evidence; but it is evidence which may be impeached, which may be wholly destroyed by other testimony; and, sir, it has been so treated, it has been so admitted by most of the gentlemen who have taken part in this discussion. It should be so considered. Well, then, what is the amount of evidence of personal identity resulting from this poll-book?

It is nothing more and nothing less than that two persons, calling themselves by such names, appeared at the place of election and claimed the right of voting. The right was granted; they did vote, and they did vote for Mr. Letcher. And here he would remark that, notwithstanding the positive requirements of the statute of Kentucky, notwithstanding it was the duty of the judges, in case the individual applying for liberty to vote should not be personally known, to administer to such applicant a particular oath, wherein the individual declares his qualifications as a voter, and his right to vote. Notwithstanding such is the language of the law, he had understood that, in practice, the oath was seldom administered, except in cases where the right of the person offering to vote was challenged.

In the two cases before us, the individuals, beyond all doubt, voted as a mere matter of course. There is no evidence that these voters were challenged, or that they were sworn on the occasion. And he asked, with confidence, whether they could have been personally known to the judges of the election? He had come to an entirely different conclusion, from the evidence adduced. With such a record, made as it was, and preserved as it had been, he could not doubt that two persons did actually appear, and did assume the names of Williams and Dawson, and did claim the right to vote, and did enjoy that right. But the inquiry now is, were there in truth any such persons who were then legal residents in the county of Anderson? or were the judges imposed upon? or, in other words, was there a fraud committed? If so, and that can be made to appear, it vitiates the whole proceeding, it destroys the whole effect of the record; and he could not doubt that all this was very competent and proper to show. And the question now is, whether the evidence which had been offered was sufficient to rebut the evidence resulting from the fact that these names appear upon the record? The latter is presumptive evidence; but it may, nevertheless, be impeached by testimony of a like character. Well, then, he would ask, what evidence has been adduced by Mr. Moore, tending to impeach the evidence resulting from the record? For he could not for a moment believe, that if Major Moore had have brought forward the affidavit of every inhabitant in the county, and it should appear that no knowledge was had of any such persons as Williams and Dawson, the record would be set aside at once as wholly unworthy of confidence.

The House, then, is bound to weigh all the evidence, and to see whether the weight of testimony is not now decidedly against the record. Mr. Moore had taken the deposition of the sheriff and of certain constables—men whose business led them through the county—men who would be likely to know the legal inhabitants of their county—and they had testified unqualifiedly that persons of those names were not known to them—that they did not believe that any such persons resided within the limits of the county. But it has been asked, why has not the testimony of the judges of the election been taken? that they had the means of knowing better than the deponents. To this remark he could not yield his assent. He, for one, did not believe that these judges could know the resident citizens of their county as well and as generally as sheriffs or as constables. They were men who, from the nature of their office—from their usual avocations, did not mix with the members of the community to

the extent that sheriffs and officers of that character necessarily must. Judges were found in their studies, and confined to the discharge of such official duties as must necessarily limit their personal acquaintance with, and knowledge of, their fellow-citizens—while sheriffs and constables, from the very nature of their employments, extended their acquaintance into every village and neighborhood. He differed, therefore, from the gentleman from North Carolina, that Major Moore should have obtained the testimony of the judges of the election, rather than the testimony of the the sheriff and of the constables. He was of the opinion that the evidence procured was entitled to more consideration than the evidence of the judges alone would have been. But the testimony of the witnesses is not all the evidence which has been offered going to show that there were no such persons residing in the county, in August last, as Williams and Dawson. The books of the commissioners have been examined, and of those whose duty it is, in each spring, to make a perfect list of all the inhabitants in the county, with reference to personal taxation—and upon such books, and upon such lists, the names of Williams and Dawson cannot be found. Here, then, is not only the positive declaration of living witnesses, who have the means of knowledge, but here are the books of the county commissioner, the lists of the tax-makers—all going to show that no such persons as Williams and Dawson were residing in the county on the day of election. And he would ask, is not all this sufficient to do away the force of the evidence resulting from the mere fact that the names of two such persons were found on the poll-book? He contended it was, and that the committee did entirely right in rejecting these votes. The presumption arising from all this testimony is, that no such persons were there, that a wrong has been done, and the burden of proof is changed. It is now the duty, and certainly is in the power of Mr. Letcher, according to the suggestions of the gentleman from Kentucky, [Mr. CHILTON,] to put this matter beyond all doubt. That gentleman has said that the lists of the constables of the county, (being ten or twelve in number,) that the militia rolls, would put this matter at rest—that they would be conclusive on this subject—and he has been pleased to add, that Major Moore should have looked to those quarters for satisfactory evidence on this point. He differed in this particular from that gentleman. Mr. Moore had done all that was incumbent on him to do, and it devolved on the other side to give us further light; and it was not an arduous or a difficult duty to perform; for it would seem, from the remarks of the gentleman from Kentucky, that if these men were honest voters, were actual residents at the time, it can be shown, it can be made to appear. He would then ask, why has not Mr. Letcher gone to the constables, and to the militia officers, and have put this matter at rest? Why has he not done it? It was clearly in his power, if the authority of the gentleman from Kentucky can be relied upon. The answer is at hand; the evidence which would come from those quarters would go only to confirm the testimony already taken. It is fair to presume this; and if the judges of the election would be able to give any different color to this transaction, their testimony would have been produced—it was within the reach of Mr. Letcher. And, after all that Mr. Moore had shown in evidence, it was not to be required that he should go further—the burden was changed. The duty had devolved on Mr. Letcher. Inasmuch, then, as no attempt has been made by Mr. Letcher to satisfy the mind on this point, to make this matter clear, is it not fair to presume that no evidence does exist, or can be obtained, which will go to change the evidence offered by Mr. Moore, and now in the case? When the inquiry was made by the honorable gentleman from Georgia, [Mr. GAMBLE,] whether time had been allowed to Mr. Letcher, he thought the answer was not so full as it should have been. He presumed there was no disposition to mislead; but he man from Georgia, that the testimony by Mr. Moore was taken about the 20th of November last—six weeks before the 1st of January—beyond which point of time he believed no testimony was allowed to be taken; and that the testimony was taken in the presence of Mr. Letcher's agent, who cross-examined the witnesses; and Mr. Letcher must have known that the residence of those two persons would be questioned, and their right to vote denied. It was no secret; no individual member of the community, who took up a newspaper after the election in Kentucky in August last, and after it was understood that the election in this congressional district would not be again submitted to the people, could have doubted for a moment that the election would be contested, and strongly and perseveringly contested. Mr. Letcher, then, was not taken by surprise. All was open, and all was fair. Here was evidence taken (if properly regarded) which could not fail to destroy the force of the record—unexplained, it was conclusive. And this evidence was taken in the presence of Mr. Letcher's agent, at a time fully sufficient to enable him to explain it, and do it away by other evidence, if such evidence could be found. And as there has been no attempt whatever to impeach the testimony of Mr. Moore's witnesses, it did follow, to his mind, that the report of the committee, on this point, ought to be confirmed by the House.

Mr. WAYNE argued in favor of admitting the names in question, on the principle that a poll-book might not be purged on presumption, unless the presumption rose by operation of law, and threw the burden of proof on the candidate claiming the benefit of the votes recorded; and was followed by

Mr. J. Q. ADAMS, who argued from the law of Kentucky to show that the voter, if unknown to the judges and sheriff, must be sworn: and unless it was proved that these persons had not been sworn, they were to be admitted on the ground of the record.

Mr. BRIGGS took the same side; insisting that the names would never have been suffered to be recorded at a poll so closely watched, unless the law had been complied with.

Mr. HUBBARD replied to Mr. WAYNE and Mr. ADAMS.

Mr. ADAMS replied, explained, and again insisted on his former argument.

Mr. LANE moved an adjournment; which prevailing,

The House adjourned.

WEDNESDAY, JUNE 4.

Mr. E. EVERETT, from the Joint Committee on the Library, reported the following joint resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the copies of the selection of the Diplomatic Correspondence of the United States, between the peace of 1783 and the 4th of March, 1789, published in virtue of an act of 5th of May, 1832, in continuation of the Diplomatic Correspondence of the Revolution, be distributed and disposed of, under the direction of the Joint Library Committee, in the manner following, viz:

To each person who received a copy of the Diplomatic Correspondence of the Revolution, and who shall apply to the Clerk of the House of Representatives for the continuation of the same, one copy.

To the Library of each institution to which a copy of the same was sent, one copy.

To Jared Sparks, editor of the Diplomatic Correspondence of the Revolution, one copy.

To Edward Livingston, under whose direction, as Secretary of State, the selection aforesaid was made, one copy.

SEC. 2. *Be it further resolved,* That twenty-five copies

of the work aforesaid, and of any work or works printed by order or at the expense of the United States, shall be placed at the disposition of the Joint Library Committee, to be by them disposed of in return for donations to the Library of Congress.

The resolution was read twice, and the question being on its engrossment for a third reading,

Mr. McKAY inquired if there would be a sufficient number of copies to give one to each person who had received the Diplomatic Correspondence published by Mr. Sparks?

Mr. E. EVERETT replied that there would not only be enough, but that there would be a surplus, which was to be deposited in the Library of Congress.

Mr. CLAYTON remarked that, if it was intended to have these books distributed among the members of Congress, as Sparks's Correspondence had been, he must oppose the resolution, and call for the yeas and nays on the question of engrossment.

Mr. E. EVERETT replied that, as they were a continuation of the Diplomatic Correspondence published by order of Congress, they were to be distributed to those persons to whom Congress had ordered the former part of the work to be given.

The yeas and nays having been ordered,

Mr. STEWART inquired if this work was not already published and lying at the State Department for distribution?

Mr. E. EVERETT responding in the affirmative,

The question on the engrossment was then put, and decided in the affirmative: Yeas 110, nays 57.

So the resolution was ordered to be engrossed for a third reading to-morrow.

The House resumed the consideration of the reports of the committee on

THE KENTUCKY ELECTION.

Mr. LANE, who had the floor from the previous day, rose and said that, as it had been intimated to him that the friends of the gentlemen who were personally interested desired to have a vote taken on the main question, he was willing, for the sake of that object, to waive his right, and abstain, at present, from making any remarks.

The original question before the House being on the following amendment, moved by Mr. BANKS, viz:

"That the votes of Eli Williams and W. Dawson, of Anderson county, and those of William Connor, Charles Welsh, Montgomery Vanlandingham, Joseph Murrain, Anderson Hulet, Hickman Evans, Henry Wood, and Richard White, of Jessamine county, be counted for Robert P. Letcher;"

And the immediate question being on so much thereof as relates to the names of Eli Williams and Wade Dawson,

Mr. PARKER proposed to modify it by inserting therewith, in substance, "rejected because there was not evidence of their being known."

The SPEAKER said this amendment would not apply to the question (as to Williams and Dawson) now before the House.

Mr. MARSHALL suggested that it should be stated—"they were rejected by the committee because these persons were proved by the sheriff, the deputy sheriffs, and others, to be unknown to them."

Mr. BANKS accepted the amendment proposed by Mr. PARKER, and made some further verbal modifications to it.

The question on the amendment, as modified, having been then put—

Mr. JONES reviewed, at some length, the arguments used for reinstating the names of those persons, and further explained and defended the views of the committee would say, in further answer to the inquiry of the gentle- in rejecting them, in the course of which he replied to the argument yesterday urged by

Mr. J. Q. ADAMS, who replied, and defended the position he had before taken.

Mr. SUTHERLAND, professing himself satisfied that these men did not belong to the district in which they voted, said he must therefore be compelled to vote against the amendment. He desired the question, however, to be taken at once, as to whether Mr. Moore or Mr. Letcher was entitled to the seat, in order that the other important business before Congress should be attended to.

Mr. POPE then proposed to amend the amendment in substance, by inserting "there being no other evidence of the fact except that their names appeared on the poll-book, to show that such persons lived in the county."

Mr. JONES proceeded to address the House at large, when he gave way to

Mr. BARRINGER, who said that if the Speaker should lend him his ear and aid, he would, in order to arrest this interminable mode of debating a subject, insist upon the rule, that no person should speak more than twice, unless by leave of the House. The member from Georgia had spoken repeatedly, and he was going again at large in reply to arguments made yesterday.

After some further remarks from Mr. JONES, Mr. HARDIN, Mr. HUBBARD, and Mr. SUTHERLAND,

Mr. BANKS further modified his original amendment, by striking out the name of "E. Welsh."

Mr. WHITTLESEY remarked that some of the modifications apeared to involve an irregularity, as they were not intended, he supposed, to apply to other names than the two voters, Williams and Dawson, from Anderson county.

The amendment proposed by Mr. POPE was then rejected. After which, the question on admittting the names of Eli Williams and Wade Dawson, having been put, was decided by yeas and nays in the negative, as follows: Yeas 93, nays 115.

Mr. S. McD. MOORE now called for a division of the remaining portion of Mr. BANKS's amendment, so as to have it put separately on the names of Montgomery Vanlandingham, Joseph Murrain, and Hickman Evans. It was divided accordingly.

Mr. MERCER adverted to the mode of conducting elections in Virginia, to which that in Kentucky is in many respects similar: and argued to show that greater weight ought to be allowed to the poll-book than seemed to have been allowed by some of his colleagues.

Mr. MASON replied—admitting that the poll-book was strong ground of presumption that an individual had voted, but denying it to be so in respect to his being a good voter; and insisting that, in case of dispute, the burden of proof lay on the person claiming the benefit of the votes.

Mr. HARDIN further explained in relation to the mode of testing votes in Kentucky.

Mr. MERCER responded to his colleague, [Mr. MASON,] and was followed by

Mr. LANE, who, after some remarks on the testimony, disclaimed all feeling on the subject—believing both the candidates to be very fit for the place. The question must be decided on principle and precedent.

Mr. H. EVERETT made inquiry respecting particular voters, which was replied to by Mr. JONES.

Farther explanations were given by Mr. HARDIN and Mr. BEATY.

Mr. S. McD. MOORE further urged the grounds on which he had moved his amendment, to which

Mr. HAMER replied.

When the question was put on admitting the three names included in Mr. MOORE's amendment, and decided by yeas and nays as follows: Yeas 103, nays 100.

So the names of Vanlandingham, Murrain, and Evans, were ordered to be taken into the computation of votes for Mr. Letcher.

The question then recurred on admitting the remaining names in Mr. BANKS's amendment, viz: William Connor, Anderson Hulet, Henry Wood, and Richard White, for Mr. Letcher.

And decided by yeas and nays, as follows: Yeas 89, nays 116.

Mr. POPE moved the following as an amendment to the amendment of Mr. BANKS, viz:

Resolved, That the votes of A. Kavanagh, George Elliott, jr., Moses Bryant, John Shipman, Shelton Harris, John Floyd, Jeremiah Anderson, Garret Norris, John D. Stone, M. B. Moseley, William Woolley, Cornelius Davis, James Moorman, John Cornett, George Callett, and Robert Figg, be stricken from Mr. Letcher's poll, it having been proved that they were minors at the time of the election.

Resolved, That the votes of William Gwinn, John McCoy, and William Wright, who resided in Garrard and Lincoln counties; and of Greenbury Peyton and William Welsh, who resided in Jessamine county, be stricken from Mr. Letcher's poll, it having been proved that they were not citizens of Kentucky at the time of the election.

Resolved, That the vote of Rowland Shields ought to be counted for Mr. Moore, on the Lincoln poll-book, it having been wrongfully stricken off by the judges of the election.

Resolved, That the vote of John Brady be taken from Mr. Letcher's poll, and counted on that of Mr. Moore, on the ground that he had, in the first instance, *bona fide* and without mistake, voted for Mr. Moore.

Mr. POPE advocated, with great ardor, the amendment he had moved; when

Mr. BANKS, desiring to reply, but being indisposed to do so at so late an hour, moved an adjournment.

On this motion Mr. VANDERPOEL demanded the yeas and nays; which, being taken, stood as follows: Yeas 104, nays 89.

The House then adjourned.

THURSDAY, JUNE 5.

POLISH EXILES.

The bill from the Senate, for the relief of the Polish exiles, having been taken up,

Mr. CLAY, of Alabama, moved, in addition to some verbal amendments, the insertion of the following words thereto, "and of the payment into each land office of the lowest mimimum price, to be paid for such land at the time of such payment, within ten years."

Mr. LANE moved that the bill and amendments be committed to the Committee of the Whole on the state of the Union; which motion, after a desultory conversation as to a point of order, in which Mr. CLAY and Mr. WHITTLESEY participated, was finally agreed to, and the bill and amendments ordered to be printed.

Mr. WATMOUGH asked the unanimous consent of the House to submit a resolution, that when the House should adjourn this day, it would adjourn to meet again at seven o'clock this evening, with a view to take up the bills in relation to the navy of the United States, which seemed to him to claim some attention at their hands.

Objection having been made, Mr. WATMOUGH's purpose was not accomplished.

TERRITORIAL BILLS.

On motion of Mr. WILLIAMS, the House proceeded to the special order of the day, being the consideration of bills in relation to the Territories of Michigan, Florida, and Arkansas, and went thereon into Committee of the Whole on the state of the Union, (Mr. WAYNE in the chair.)

On motion of Mr. WILLIAMS, the bill repealing certain acts of the Legislative Council of Florida, by which certain taxes were imposed and raised improperly on the property of absentees, was taken up; and the report presented with the bill having been read for the information of the House—

Mr. WHITE moved an amendment, in substance to authorize two additional members to be sent to the Council; which, he remarked, became necessary, but would not cause any increase to the public expense, as the amount of expenditure for the Legislative Council was limited by law.

The amendment was agreed to.

Mr. FILLMORE inquired into what treasury the taxes which had been so unjustly raised had been paid; for, if the money had been paid into the local treasury of the Territory, he must object to the amount being refunded out of any other.

Mr. WILLIAMS replied that the money had been paid into the Territorial treasury. The committee, considering that the Legislative Council, by imposing a higher tax on the property of absentees than they did on that of residents, had acted unjustly, now recommended this bill repealing the act.

Mr. FILLMORE fully concurred in opinion that the principle assumed by the Legislative Council was objectionable. Yet, although he did so believe, and that the amount to be refunded was small, as it was to be paid out of the treasury of the United States, he could not sanction the principle of such a payment, under the circumstances.

Mr. WHITE, of Florida, said that, believing the Legislative Council had no right to pass such a law, he would consent to a proviso that the payments to be refunded, should be so refunded out of the Territorial treasury.

Mr. FILLMORE thereupon moved to strike out the words "treasury of the United States," and insert "by the Governor of Florida."

Mr. WHITE said that, as the amount in question was very small, and upon an appeal to the judicial tribunals from parties who had resisted the tax, they had been supported, it was not worth while to legislate upon it at all. He moved, therefore, to strike out the clause providing for the repayment altogether.

The motion prevailed, and the bill was laid aside.

Mr. SEVIER moved to take up the bill to establish an additional land office in Arkansas, to which he moved an amendment, correcting a mistake as to the boundary of the district in which it was to be established; which was agreed to.

Mr. McKAY desired to be informed by the chairman of the Committee on Public Lands, if the lands in this district were now ready, or when it was expected they would be brought into the market.

Mr. CLAY said he believed they would be in market within the next twelve months.

Mr. MASON went into an explanation to show that the establishment of this additional land office was become necessary for the interest of Government, as well as the land owners, and the only expense of establishing it now would be $500 for a register and $300 for a receiver.

The bill was then laid aside.

Mr. WHITE moved that the House take up the bill for the relief of certain inhabitants of East Florida, which provided for the payment of such losses as should be awarded by the judge of the superior court of St. Augustine, Florida, as were occasioned by the troops in the service of the United States; and in which bill, there being a provision in blank, allowing remuneration to the said judge for his extra services, under its provisions—

Mr. W. moved to fill up the blank with $500.

Mr. FILLMORE inquired if the judge was not a salaried officer?

Mr. WHITE replied that he was; but that it was not unusual to allow for extra services an extra compensation.

Mr. McKAY inquired if these judges had not $800 already allowed them for extra services?

Mr. WHITE said they had; but that extra compensation would expire this year. He supposed the claims now to be decided would occupy the time of the judge during ten months. As, however, he said it seemed that the present remuneration was objectionable, he would move to strike out the section altogether.

Mr. McKAY then objected to the bill making any appropriations, and desired to be informed why it was incumbent on Government to make them?

Mr. WHITE entered into a lengthened explanatory statement of the circumstances by which, under an act passed in secret session in 1811, the then President of the United States was authorized to take temporary possession of the Floridas, with a view to the prevention of their occupancy by any foreign Power. This possession was accordingly taken, by a military force, and much damage had been done by the troops of the United States to the inhabitants of the eastern territory, until, by the stipulations of the treaty with Spain, she had abandoned the territory, and after, in fact, it had been made a desert by our troops. Spain had made a reclamation on this subject; and, whatever was the conduct of Spain, that was, he said, a matter with which the innocent inhabitants could not have any thing to do. Spain had, in the treaty, stipulated that full compensation should be paid for these, as injuries done by us to a neutral Power in time of peace.

She had pressed the claims of these people so strongly, that she never would have consented to the cession of the territories, unless the stipulation in their favor had been made. By that cession, he would remind the House, full thirty-two millions of acres--deducting therefrom three millions for the liquidation of valid grants—twenty-nine millions of acres of as valuable land as any in the Union, were obtained for the sum of $5,000,000. It was not, then, too much for him, under these circumstances, to ask the committee to carry into effect the treaty stipulations for which the bill had been reported. The claims had been all preferred, and the papers were now only to be adjudicated upon, and would, possibly, not amount to more than $40,000.

Mr. McKAY then wished to know what necessity there was, if all the claims had been decided upon, for the commission. Why not strike it out?

Mr. WHITE said, in reply, that, although the claims had been all presented, action on them had been suspended.

The clause giving a remuneration to the judge was then stricken out, and the bill laid aside.

The bill to create two additional land districts in Illinois, and two new land districts north of said State, in the territory now attached to Michigan, which lies between the Lake Michigan and the Mississippi river, was, on motion of Mr. LYON, taken up, and an amendment, offered by him, agreed to, providing that the register and receiver of all land offices, established under the United States, shall be authorized to administer all such oaths as may be necessary in relation to the duties of their offices, and for which they are to have the usual fees.

The bill was then laid aside.

On motion of Mr. SEVIER, the bill authorizing the President of the United States to cause certain roads to be opened in Arkansas, was then considered and laid aside.

The bill authorizing the President to cut out a road from the northern boundary of Florida to the town of Appalachicola, was, on motion of Mr. WHITE, taken up, and the following amendment submitted by him was agreed to, and the bill then laid aside:

"For the survey of a road from Tallahassee to Cape Florida, $500;

"For a survey of the east pass into Appalachicola bay and river, to ascertain the practicability and cost of removing obstructions and improving the harbors, $500."

The bill making an appropriation of $10,000 for the construction of a road from Columbia to Little Rock, having been, on motion of Mr. SEVIER, taken up, and, after some inquiries from Mr. Fillmore, was laid aside to be reported with the other bills.

Mr. WHITE, of Florida, moved that the committee should take up the bill "supplementary to the act entitled 'An act to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia,' passed on the 4th day of May, 1826."

The bill having been taken up for consideration,

Mr. FOSTER, of Georgia, moved to amend it by striking out that clause which directs the boundary line between Georgia and Florida to be run pursuant to the provisions of the treaty of 1826, and inserting a clause directing that the line should be run as it was understood, in 1783, when the State of Georgia became independent. Mr. F. contended that the United States were bound to secure to Georgia the limits enjoyed by her when she joined the confederacy, and was not at liberty to grant away any portion of her domain to any other State or Territory. The line, as originally described in the charter of Georgia from the British Government, was to have for one of its extremities the head of the St. Mary's river. But the country being, at that time, wild and unexplored, the commissioners, instead of ascertaining the true head of the St. Mary's river, had fixed upon a certain point, where they erected a monument, and in subsequent treaties this point was assumed to be the head of the St. Mary's river. But as the country came to be more fully explored, it had been discovered that the St. Mary's had a more southerly branch, the source of which was the true head of the river, and he therefore insisted that, according to the charter, this ought to be admitted as our termination of the boundary line; and what he wished was that a joint commission should be appointed by Georgia and the United States, to have the line re-examined; and if it should appear that the true head of the St. Mary's was where he expected it to be, that the line should be run according to the true intent and meaning of the charter of Georgia, and of the act by which she was received as a State into the Union.

Mr. WHITE was reluctant to take up the day in this discussion. The claim now set up by the gentleman was not a new one. It had undergone a long discussion in the House on a former occasion, and could obtain but fifteen votes in its favor; it had been reported against in the House by three different committees on the Judiciary, and by one committee in the Senate; all which committees had been nearly, if not quite, unanimous in their reports; one of which had been made by Mr. P. P. Barbour, another by Mr. Buchanan; that of the present year by the gentleman now Speaker of the House, and that in the Senate by Mr. Webster. The treaty made in 1795, between Spain and the United States, recognised the report of the commissioners, first appointed to run the line, as valid and binding under that treaty, to which treaty Georgia, by her Senators, had given her assent; and it was not until 1819, that the present claim had been set up on her part. He did not pretend that the United States had the right to cede away any portion of the territory of Georgia. All he wanted was that a line should be run, and the question might be reserved; for all must see that it was a question to be settled, not in this House, but in the Supreme Court of the United States.

Mr. GILMER, of Georgia, after adverting to the full opportunity he had enjoyed of understanding all about the history of this boundary line, declared his conviction that the line, as settled by the treaty of '95, was not the true

one. It had been run in ignorance of the country and under mistake; which mistake, having since been discovered, ought now to be rectified. The reason why Georgia had not sooner set up her claim was, that, until 1818, the country was in possession of the Indians, and Georgia knew nothing of the true position of the head waters of the St. Mary's. The Spanish treaty had reference only to the question between Spain and the United States, and did not settle the question between Florida and Georgia. Spain had never conquered any part of Georgia, and never pretended to have a right to any portion of her territory. Because the line had once been run incorrectly, must it therefore be adhered to? Would it not be a much cheaper and easier way of settling the question, to appoint a joint commission to examine the country and run the line anew, than to compel both parties to go into the courts of the United States. Mr. G. contended that it was important that the line should be correctly fixed, to avoid interfering grants and conflicting claims.

The question being put on the amendment proposed by Mr. FOSTER, it was not agreed to.

No further amendment being offered, the bill was laid aside to be reported to the House.

On motion of Mr. WILLIAMS, the committee now took up the bill "authorizing the President of the United States to run and mark the line dividing the territory of the United States from the State of Missouri."

The bill being taken up accordingly, and read for amendment,

Mr. BULL, of Missouri, offered an amendment, the effect of which would be to extend the northern boundary of Missouri westward to the Missouri river, instead of running, as it now does, down the river Lamoine.*

* HOUSE OF REPRESENTATIVES, June 9, 1834.

Messrs. GALES & SEATON:

When the bill authorizing the President of the United States to run and mark the line dividing the territory of the United States from the State of Missouri was under consideration in Committee of the Whole, I proposed the following amendment: "Thence [from the mouth of the Kansas river] up the Missouri river, until it shall reach the parallel of latitude which passes through the rapids of the river Des Moines, and from thence to the Mississippi river;" which was agreed to without opposition.

Mr. WILLIAMS then moved to reconsider the vote by which the amendment was adopted; and, while this motion was under consideration, I am represented in the National Intelligencer of this morning as saying, in the course of some remarks submitted by me to the committee, "that the portion of territory which would be added by the adoption of this amendment consisted of a narrow slip of land lying between the Lamoine and the Missouri, and below the rapids of the Lamoine." This is a very material misapprehension: there is no such river in that part of the State of Missouri, and no river was referred to by me (except in the amendment) but the Missouri. What I did say was, that the portion of territory which would be added by the adoption of the amendment, consisted of a slip of land lying between the supposed line of the State and the Missouri river.

After Mr. WILLIAMS withdrew his motion to reconsider the vote on my first amendment, I then proposed the following amendment:

"*Be it further enacted*, That all that part of the territory of the United States embraced within the boundaries aforesaid, which was not originally included within the State of Missouri, be, and the same is hereby, attached to, and shall form a part of the State of Missouri, and the sovereignty, jurisdiction, and laws of the said State shall extend over the said ceded territory in the same manner, and under the same conditions, as if the same had originally, on the admission of the State of Missouri into the Union, been included within its limits."

On motion of Mr. FOSTER, the further consideration of the bill was postponed until to-morrow, (Saturday.)

I am desirous of having the mistake corrected, and, with that view, I have to request that you will do me the favor to publish this note. Yours, respectfully,

JOHN BULL.

The amendment was agreed to, without opposition.

Mr. WILLIAMS moved to reconsider the vote by which the amendment had been agreed to.

Mr. GAMBLE, of Georgia, supported the motion of Mr. WILLIAMS, and explained the reasons which had induced the Committee on the Territories to refuse inserting such a clause in the bill.

Mr. BULL explained the circumstances of the case. The portion of territory which would be added, by the adoption of this amendment, consisted of a narrow strip of land lying between the Lamoine and the Missouri, and below the rapids of the Lamoine. The State of Missouri had, for some time, felt an interest in having this change effected, and no one who consulted the map, and was acquainted with the circumstances of the case, could deny that, while the acquisition of this small portion of territory would, from its position, be a great benefit to the State of Missouri, the cession of it would occasion little or no loss to the United States. It was true that it had been proposed to include this strip along with other lands intended as a location for the Pattawatamie Indians, but it was so situated that this purpose could not be carried into effect, without very great inconvenience as well to the Indians as to the people of Missouri. They could not be kept separate from the whites, as it was intended and desired that they should be, if they should be fixed upon this land. There must be passing and repassing both of Indians and of their stock; and the people of Missouri, who lived within about thirty miles of the river, would not be able to reach it without going as much as one hundred miles round. The same quantity of land might be assigned to the Indians elsewhere, and it would be better both for them and and for the people of Missouri.

Mr. H. EVERETT, chairman of the Committee on Indian Affairs, supported the amendment, further explained the location of the land, and stated that the Indians were willing to take others in its stead.

Mr. ASHLEY corroborated the statements of his colleague as to the solicitude felt by the citizens of Missouri for the proposed alteration of their boundary. This land lies at the northwest corner of the State, and, being of very excellent quality, should the Indians be placed upon it, it would be an everlasting source of contention, and might lead to serious consequences. The Senate were convinced of this, and, before consenting to ratify the treaty with the Pattawatamies, proposed to annex this fraction of land to the State. They had not yet decided the question of the treaty. The annexing of this land as proposed, would give the State of Missouri a natural western boundary, instead of a mere arbitrary line; and, in case of an Indian war, would interpose a river, three-quarters of a mile wide, between them and the enemy. Mr. A. expressed himself decidedly opposed to locating Indians in direct vicinity to white settlements. The lands proposed to be annexed would at once be brought into market, and produce to the treasury some $800,000 or $1,000,000. Mr. A. thought every consideration should induce the House to adopt the amendment, and he trusted it would be agreed to.

Mr. DUNCAN briefly expressed his views in favor of the amendment, when

Mr. GAMBLE said that, as he now understood the treaty with the Indians had not been ratified, and that this piece of land had not, as he had at first supposed, been guarantied to them by the United States, he should withdraw his opposition.

Whereupon Mr. WILLIAMS withdrew his motion to reconsider. The amendment, therefore, remains with the assent of the committee.

Mr. McKAY, by consent, moved an addition to the bill for running the Florida line, providing compensation to the commissioners at eight dollars per day, and the surveyors at five dollars; which was agreed to.

The bill was then laid aside.

The bill for the survey of certain rivers and roads, and for the improvement of a harbor in the Territory of Michigan, was in like manner considered and laid aside, after some explanations from Mr. MERCER.

On motion of Mr. SEVIER, the bill for the relief of sundry citizens of Arkansas, who lost their improvements in consequence of a treaty between the United States and the Choctaw Indians, was next taken up.

At the call of Mr. McKIM for information,

Mr. SEVIER explained. When the United States had, for the sake of quieting certain Indian tribes at the South, set apart a portion of the former Territory of Arkansas for their habitation, the settlers upon it, who were numerous, were ordered off by the Government. Some of them obeyed; but others stood upon their right of pre-emption, and refused to quit their improvements. To avoid difficulty, these latter had been allowed a half section of land apiece for their improvements; while the others, who, like peaceable citizens, had removed when ordered to do so, had gotten nothing for their improvements. The present bill was for their benefit, and allowed them a quarter section each.

Mr. CLAY supported this explanation, and said that the bill had the approbation of the Committee on the Public Lands.

Mr. McKAY and Mr. FILLMORE opposed the bill, as encouraging squatters to violate the law and invade the public lands.

Mr. DUNCAN supported the bill on the ground that the United States had ceded away the land to the Indians, and compelled these settlers to abandon their improvements and seek other homes. He was not surprised to hear objections from new members to this claim, on account of the settlers having no title to the land, as they were not aware of the inducements which had always been held out to the hardy sons of the West to penetrate the forest in advance of the surveys and sales, and make improvements on the public land; but for this policy, he said, the vast regions of public land now held by the United States, however rich and fertile, would never sell; and the great and prosperous States which have grown up in the West would have been at this moment a trackless wilderness or Indian hunting ground. He said the Government had sometimes induced these settlers to reduce their wild lands to cultivation and civilization, by making liberal donations of land, and at other times by granting the right to each settler to enter at the minimum price a quarter section to include their improvements. He said these pre-emption acts had often been opposed, but the justice and good sense of the nation had thus far sustained the policy, and he was happy to see a pre-emption bill about to pass at the present session of Congress, as it was no more than an act of justice to the settler, and of wisdom and sound policy in the Government. He said no honorable man in the new States ever thought of entering a good settler's home over his head, and he could not believe the Government would ever be so unjust as to deprive its citizens of their homes without making a just compensation to them

Mr. FILLMORE was opposed to giving an equal amount of land to every settler, while their improvements might have been very different.

Mr. H. EVERETT moved to insert the words "before the 1st of June, 1828."

Mr. CLAY assented to this, and replied to Mr. FILLMORE's argument against the squatters.

The contest on that subject was further continued by Mr. FILLMORE, Mr. WARDWELL, and Mr. McKAY, on the one hand; and Mr. DUNCAN, Mr. MASON, and Mr. SEVIER, on the other:

When the bill was laid over to be reported.

The next bill considered was a bill to authorize an extra session of the Legislative Council of the Territory of Michigan.

Mr. LYON having made the necessary explanations, the bill was laid over.

LEAD MINES.

The committee now, on motion of Mr. DUNCAN, took up "A bill to authorize the President of the United States to cause the lead mines in the State of Illinois and Territory of Michigan, to be exposed to public sale, and for other purposes."

This bill gave rise to a very animated discussion, which occupied the House for more than two hours.

Mr. PARKER opposed it from the start, and wished it postponed, as a bill of too much importance to be taken up so late in the day.

Mr. DUNCAN wished it discussed without delay.

Mr. HUBBARD doubted if it was regularly among the Territorial bills.

The CHAIR said it had been included among them because part of the lead mines were in the Territory of Michigan.

Mr. LYON said that the great body of the lead mines were in Michigan.

Mr. R. M. JOHNSON thought it best to allow the bill to pass in committee, and reserve the debate upon it, if any, to the House. This was the only day allotted to the Territories; and it was a pity to consume it in debate. The policy of selling the lead mines has already been pursued. It was not a new question.

Mr. ASHLEY said he could speak from a perfect knowledge of facts touching the sale of mineral lands. He stated that it had been the former policy of the Government to reserve the lead mines, and lease them at one-tenth of the proceeds; but, after an experiment of ten or fifteen years, it was found that the expense of employing agents to attend to the business of collecting rents, exceeded the receipts into the treasury. In the mean while, the effects of the policy was ruinous upon the lands, and retarded the growth of the country. The lands in the mineral region in Missouri, after being withheld from sale many years, were thrown into market. At the first sale, but four quarter sections were sold, and they commanded the minimum price only. Having witnessed the evils growing out of the policy of reserving the mineral lands, Mr. A. would vote for the bill.

Mr. DUNCAN considered the sale of these lead mines as a matter of more interest to the United States than to the people in the vicinity. It was true, indeed, that the people of Illinois felt a desire that the country should be permanently settled, rather than leased out as it now was. Under the present system, the expense of leasing was said to be nearly equal to the avails from the leases; and, in the mean while, the lands were ruined by the operation. Those who leased them, trenched the country in all directions, and threw out the clay over the soil, so that, when they gave it up, it was in many places rendered wholly useless for agricultural purposes. Whereas, were the lands sold instead of being leased, they would bring a high price, both on account of the mineral riches they were known to contain, and on account of the fertility of the soil. But after the land was spoiled by the diggings, that covered it like the tracks of so many moles in a garden, it would bring little or nothing. As property of the United States, it was becoming less and less valuable every day. Personally, Mr. D. felt little concern in the matter: for many of his constituents, who were miners, had remonstrated against the measure; though, from a careful attention to every expression of opinion on the subject, he believed a majority were in favor of the sale. And, as he was fully persuaded that it was for the public interest, the interest of Illinois, and the future pros-

perity of the mining district, he hoped the bill would pass.

Mr. WILLIAMS moved to amend the bill by inserting a proviso, that six months' notice should be given before the sale; which was agreed to.

Mr. PARKER remonstrated with warmth against the idea of forcing a sale of these valuable mineral lands at $1 25 an acre. The gentleman stated that the miners had remonstrated against it. Mr. P. should like to hear their remonstrances read; he wanted to hear what these people had to say. Why should the debate be reserved for the House, and not be had in committee? He had always thought that it was the very purpose of going into Committee of the Whole that discussion might be more full and free. The House was very thin, doubtless because gentlemen had had no idea that a proposition to sell the lead mines would be brought up as Territorial business.

Mr. ASHLEY explained. In Missouri, the lead lands were of the second quality; yet, had they been sold before the mines were opened, they would probably have brought $10 an acre; now, they would hardly sell at all.

Mr. LYON observed that, if these mines were as valuable as some gentlemen seemed to think, surely, if six months' notice of sale should be given, they could not be sacrificed as gentlemen seemed to fear. Certain it was, that, under the present plan of leasing, the timber was daily destroyed, and the lands ruined; nor would it ever be otherwise until the holders should have a permanent interest in the property.

Mr. WARDWELL inquired whether the pre-emption acts would not give the lessors of these mining lands a right to them at the minimum price?

Mr. REED wanted further light. He thought the United States had better hold on to the lands for the present, even if they were badly managed.

Mr. LYON said he should not press the bill; he was willing it should be postponed.

Mr. GAMBLE, of Georgia, said he had had little experience in lead mines, but had had some in gold mines; and, from what he knew on the subject, his impression was, that the sooner the Government could get rid of these lands the better. As long as they were leased out, the miners would combine to destroy their character and depress their value. Nothing was easier. In respect to gold mines, it had been reduced to a regular system, insomuch that he had personally had offers made to him by miners, to either raise or depress the reputation of a given mine, as it might best suit his purpose. It had become a regular business. These lands were, at present, of no value to the Government. If they were valuable, competition would soon find it out, and, on due notice, the price would rise.

Mr. FILLMORE inquired if the mines were leased for a term of years?

Mr. LYON stated that they were on three years' leases.

Mr. ADAMS inquired whether there were no returns of the avails of these lands? If there were not, there ought to be. The idea that they were an expense to the United States, was new to him. If it were so, it must be because the rent was not paid.

Mr. DUNCAN said he had not ascertained with precision what were the actual expenses to the Government in carrying on these mines; he knew there were several agents employed, and presumed there were other charges nearly if not quite equal in all to the value of the rent received, which, he said, (if he was understood correctly,) was 604,828 pounds of lead in the year 1833, the value of which, at three dollars per hundred, was only about eighteen thousand dollars.

He referred to a report from the War Department, made to Congress in 1830, which recommends the survey and sale of these mines.

The question was taken on laying the bill aside, and negatived.

Mr. VINTON then addressed the committee in support of the bill. The ordinance of 1785 had required that, when the public lands should be sold, a reservation should be made of mines and salt springs. This was under the idea that, if sold, they would become immense individual monopolies; for it was not then known that both salt springs and lead ore abounded through large portions of our territory. But since this had been discovered, the whole original ground was changed; and, in consequence the salt springs had been sold, and a part of the lead mines. He thought the residue should be sold in like manner. While lead ore was abundant, fuel was comparatively scarce; for most of the ore was in the prairie land, where there was no timber. The present system wasted what timber there was. The ore was dug out and piled up in heaps, and melted by a great waste of fuel, owing to the slovenly manner in which the process was conducted. The timber would soon be gone, and then the ore would be of no more value than so much stone. But if the land was sold, the process would be conducted with all the care and calculation which marked individual interest; the fuel would be husbanded, and applied in the best manner. Under such a system, the value of these lands would be preserved and increased. But six months' notice of sale would be insufficient; for the capitalists, who alone could engage extensively in such undertakings, resided chiefly in the East, and it required more time than that to make the necessary preliminary inquiries, and change the investment of large sums of money. He should move to increase the notice to twelve months. As to selling the lands at present, while under lease, it was out of the question. No one would purchase, under such an incumbrance, lands from which the lessee would strip as much of the timber as he could, and spoil the soil by his shallow diggings.

Mr. V. accordingly moved a proviso that the lands should not be sold till the present leases should have expired, and that twelve months' notice should be given of the sale.

Both which provisoes were agreed to by the committee.

The bill was then laid aside to be reported.

On motion of Mr. LYON, the committee then rose, and reported all the bills to the House.

Mr. L. endeavored to have the "bill to grant a certain quantity of land to the Territory of Michigan, for the purpose of aiding said Territory in opening a canal, or constructing a rail or Macadamized road, to connect Lake Erie, or the Detroit river, with Lake Michigan," taken up in Committee of the Whole on the state of the Union; but opposition being made by Mr. PARKS, of Maine, and others, he withdrew the motion.

The amendments to most of the bills were concurred in by the House, and they were ordered to their engrossment for a third reading, with the exception of the bill to sell the lead mines, the bill to run the Florida line, and that to run the line of Missouri; which were postponed to Friday.

The House then adjourned.

FRIDAY, JUNE 6.

TERRITORIAL BILLS.

The unfinished business for yesterday being the bill from the Senate making appropriations for the construction of certain roads in Michigan, which was on its third reading—

Mr. WILLIAMS said he was not willing to throw any embarrassment in the way of passing the bill, but he desired to have some explanation as to the necessity for these roads.

Mr. MERCER, in the accidental absence of the Delegate from the Territory, would state, for the information

of the honorable member, that the applications for these roads having been referred to the Committee on Roads and Canals, they had duly considered them, and the bill, as reported, had been approved of by them. The question for the House, then, to decide would, he said, simply be, whether it was just that the United States, who have the greatest interest in the public domains in that Territory, or the people, who have not that interest, should be at the expense of making roads; the effect of which, when made, would be, by increasing the value of the public lands, to increase, in a great degree, the receipts therefrom into the treasury of the United States.

Mr. McKINLEY said that, after much examination of this subject, he really could not discover upon what ground the burden of making these roads in this Territory was to be incurred by Congress. He could see no reason why they should have the support of the House. No report having, as he believed, been made by any of their committees upon the subject, nor had there been any information or estimates laid before them, as was usually the case, by any of the United States' engineers. He could not see with what consistency gentlemen, who opposed appropriations for offices not previously established by law, could yet reconcile to themselves making appropriations for roads not previously sanctioned by Congress. But so it was always when appropriations were made connected with the subject of internal improvement. He complained that Alabama, which he had the honor to represent, had not received, although they had the promise of it, any benefit by the outlay of money for internal improvements; and yet the Territory of Michigan, which did not contain one-fourth as much public lands as his State did, had received appropriations, in the aggregate, to possibly half a million, certainly to 300,000 or 400,000 dollars. On what ground, he must ask, was this unequal outlay to be maintained? Why, he would also ask, was it that Florida got more than Michigan? The answer might be, that we had full power over the Territories. But the power of Congress to make internal improvements was claimed to exist all over the Union. It was time, however, this system should be arrested, when they had propositions, as in the case of the road through Illinois, Missouri, and other States in the West, which would, he thought, go altogether to the exhaustion of the funds levied on the sales of all public lands. He was not disposed to sustain the system, doubting the power of the United States to make improvements where they had no jurisdiction, although he had no doubt Congress had power to aid the States by appropriations for such purposes. He would now, therefore, call upon those members who were formerly so anxious on the subject of economy, and who supported the proposition so successfully for the reduction of the salaries of the custom-house officers, &c., to show their regard for the public money by voting against this bill, which afforded to them so fair an opportunity; it being one, too, in which there would be no difficulty of finding persons on his side to join them.

Mr. MERCER explained, and justified at length the manner in which the Committee on Roads and Canals acted, with reference to all appropriations for roads recommended by them, advocating the present bill on the ground that making the roads contemplated by it would prove of ultimate benefit to the United States. He denied, however, that so much had been done for Michigan as was asserted by the honorable member from Alabama, by the Committee on Roads and Canals. The present bill was one granting about $60,000 for certain roads, which must, when constructed, evidently increase the value of the public lands. It should, therefore, stand or fall on its own merits. He could not see any force in the objections raised to improvements that had the object of benefiting the public property. These objections, however, on the subject of internal improvements, had been made for the last fourteen years; but it was some consolation that, in reply to them, the vote of the House generally went to sustain them. It was asked by one honorable member, was not the Chicago road formerly vetoed? and it was said, if so, why now make an appropriation for it? But he trusted that Congress never had, never should come to such a state of servility, as, for such a reason, to decline voting and acting as it thought proper. The Chicago road, however, was not vetoed.

The opposition to this bill, on the ground that Alabama got no benefit by the system of internal improvements, was, he thought, peculiarly unfortunate, because the largest appropriation that ever had been made by Congress to promote internal improvements was for that State.

Mr. McKINLEY said he had meant to state that, whilst Alabama was a Territory, she had received nothing.

Mr. MERCER resumed, and said that Alabama could not with any grace complain, if she derived benefit from the system, in common with other parts of the Union, when she became a State; but it was yet to be proved that, even whilst she was a Territory, she had asked for any thing, or been refused. He could assure the honorable member that he would feel ashamed of himself if he could be influenced in withholding any appropriation from his, or any other State, simply because that State would not acknowledge the jurisdiction of the United States to make internal improvements therein. Such was not his course, being always determined to support those propositions that would appear likely to prove generally beneficial. Mr. M. detailed at length the method and costs of constructing roads suitable to the progressive wants of the new States and Territories generally. After which, he defended the course taken by the committee on the subject of internal improvements, maintaining that there was not one appropriation recommended by them for any object that they could not sustain, by referring to the principle on which they had uniformly acted, viz: its general utility to the Union. Persecuted as the committee had been for their opinions, he believed he might, in conclusion, take leave on this head to say, for himself, with Job, "Oh that mine enemy would write a book."

Mr. WHITE, of Florida, said, as there was evident symptoms that there was to be opposition to the appropriations contemplated for the Territory which he had the honor to represent, he would, in reply to the statement made by the member from Alabama, that Florida had received more than Michigan, beg to refer him to the laws of the United States for better information than the honorable member seemed to have upon that subject. There he would find that Florida had not, in the aggregate, received, ever since her connexion with the United States, as much for roads and canals as was now proposed to be given to the Territory of Michigan by the present bill. But one appropriation of any consequence had been made for a road, and that was at the special recommendation of General Jackson, in 1824, from St. Augustine to Pensacola; and what, he asked, was the result? Why, it would appear, from the reports in the Land Office, that the public lands which, owing to its being constructed, had been brought to market, were sold at five and five and a quarter dollars per acre, whilst lands of equal value had previously been there sold at one and one dollar and a quarter per acre. The reason for this was too obvious to make it necessary for him to dwell upon the advantages arising to the United States by continuing that system, by which their forests were enabled to be penetrated, and their lands brought into connexion with the busy haunts of men. This was the result, according to his own observation, in Florida, and he had no doubt it would be the same in other parts of the Union similarly circumstanced. In answer to the outcry that was now to be raised, that

the Territories were getting more than the States, he would assert that they had stronger claims than any of the States, because they were, in fact, the property of the nation, and to them would, in the end, accrue, as he had shown actually did, all the benefit of the improvements made there.

The gentleman from Alabama talked about the large quantity of public lands in his State—they amounted, he believed, to 27,000,000 acres, of which only 1,000,000 had been sold. But had not that State grants given them for various purposes, of 600,000 or 800,000 acres. Then they had, in addition, a law passed in their favor, releasing purchasers of public lands from the payment of their bonds to the amount of 600,000 or $800,000. Under such circumstances he would protest against any such argument being raised in opposition to the just claims of the Territories. He, in conclusion, repeated that all grants made by the General Government to them was, in reality, for the ultimate benefit of their own property, just as much as the improvements made by a farmer would add to the value of his own farm. Nothing, he said, had been given to the Floridas for some five or six years; and he defied the honorable member to make good his assertions, that they had obtained more than Michigan.

The debate was arrested at 12 o'clock by

Mr. CHINN, who rose to call for the special order of the day; which was set apart for the consideration of business in relation to

THE DISTRICT OF COLUMBIA.

Mr. POLK appealed to the House whether it was not of more importance to dispose finally of the appropriation bills before they should enter into the business of the District, to which he would be willing to attend on Friday or Saturday next. He moved that the rule be suspended for the purpose of taking up the appropriation bills.

Mr. WHITTLESEY remarked that it might be possible for the House to dispose of both.

Mr. WILLIAMS opposed the motion to suspend, as he believed the members generally came prepared to act on the business of the District.

Mr. CHINN said he had no idea, unless the business of the District was then taken up, that there could be any action on the bills in relation to it, before the adjournment of Congress. He hoped the motion would not prevail.

The House refused to suspend the rule, and went into Committee of the Whole (Mr. BRIGGS in the chair) on sundry bills.

On motion of Mr. CHINN, the bill to complete the improvements on Pennsylvania avenue was taken up.

Mr. PARKER desired to be informed what was the nature of the outstanding claims for work done on the avenue, for which he observed an appropriation was proposed of $3,720. He had some objection to another item, not so much on account of its amount, as that he feared, if it was sanctioned, it might prove an entering wedge to future demands upon Congress. He alluded to the appropriation of $200 for removing the dust and mud from the surface of the avenue. He objected to Congress, having caused the road to be made, now taking upon themselves the charge of it, believing it would lead them to an expense hereafter, the extent of which no person could guess. His objection was on account of the principle, not to the amount; and he would move to have this, at all events, stricken out.

Mr. CHINN, in explanation, said it would be in the recollection of the House how much inconvenience was felt from the state the avenue was in not long since, and for which various propositions had been suggested to obviate it. The House having refused to act upon the joint resolution to direct the Committee on the Public Buildings to have the street watered, the Committee on the District had thought it necessary to have the dust removed. For this an expense of $143 73 had been incurred; to which sum he would move the reduction of the appropriation.

Mr. PARKER would not say that the removal of the mud or dust was not a convenience in itself; but he would say that the United States ought not to be called on to pay for it. He had no idea that Congress should take upon themselves the functions of scavengers to the good City of Washington. Was it, he inquired, necessarily to follow, that because they had, at an expense of one hundred and fifty thousand dollars, made a Macadamized road, they were to have this duty entailed upon them? If so, it was better they had not directed it to be constructed at all. He thought the people of Washington should do as the people of other cities did, namely: keep their own streets in repair, and keep the dust out of their own eyes.

Mr. WARDWELL suggested that, as the expense had been incurred, it was necessary to alter the phraseology of the appropriation from "to remove," and insert instead, "for removing."

Mr. CHINN assented, and modified his amendment accordingly.

Mr. STODDERT contended that the same reason which existed for making the road originally would apply for making the appropriations in this bill; the original object in making it being not so much for the benefit of the people of Washington as it was for the benefit of the Government and of the country at large. If, then, it was a good reason to expend one hundred and fifty thousand dollars, he thought that the House could not well refuse the small amount of one hundred and seventy-three dollars, which was laid out to make it answer that purpose.

Mr. HARPER desired to have the amendment so worded as that this appropriation should not serve as a precedent for future expenses of the same kind. He observed that there was another of four hundred dollars, to keep the avenue in repair; but he was opposed to Congress having the duty, thus self-imposed, of keeping the road in repair; conceiving that, if this was once sanctioned, neither that amount, nor double that, would be found sufficient for it. He desired, as the expense had been incurred, that it should be paid; but, to avoid the danger which he had stated, that the amendment should have inserted in it, "that it was for money already expended."

The amendment being modified, in accordance to this suggestion, the question thereon was put, and it was agreed to.

Mr. PARKER remarked that it seemed to him the honorable member from Pennsylvania had gained nothing by the change made in the amendment; for he contended that, if it was adopted in its present shape, Congress must construe it into a worse precedent than it was before its phraseology was altered. In its present shape it went to sanction an expenditure ordered by a committee of the House. The money was first expended, and then the House were asked to pay it. What authority was there, he would ask, in any committee, to make such an expenditure? If Congress acceded to it, would not the certain result be to establish a stronger precedent? He must, therefore, move to have it stricken out; and, if that motion should succeed, it was his intention, he said, to move to have the succeeding item of four hundred dollars for repairs, also stricken out.

Mr. FILLMORE maintained, however, (anxious as he was—equally with the honorable member from New Jersey, [Mr. PARKER]—to avoid creating a bad precedent,) that Congress were perfectly justified in causing the inconvenience resulting to them in the transaction of their public duties from the state of the road to be removed, and to make an appropriation for the expense incurred by that removal. For their convenience the

streets had been cleaned, and he was disposed to have it paid for.

Mr. EWING said it might be worthy of inquiry, whether the appropriation was intended to cover the expenses which would accrue whilst Congress was in session?

Mr. CHINN said it was intended for expenses already incurred, and which had become necessary in preference to the proposition to have the street watered, which would have cost at least eight hundred dollars.

Mr. McKINLEY would vote for the payment of the expenses already incurred, but could not support the other, to keep the avenue in repair.

Mr. WATMOUGH advocated the amendment, as work had been done for the convenience of members, which could not otherwise be paid for, and a number of persons would be thus prevented obtaining what was justly due to them.

The motion to strike out was negatived; thereupon,

Mr. PARKER said that, as he desired to avoid the possibility of this being cited hereafter as a precedent, he would move to have inserted in it, that it was for expenses incurred under the direction of the Committee on the District.

Mr. WARDWELL hoped he would withdraw this amendment; for, if it was inserted, however willing to vote for the expenses of removal, he could not vote for it if worded as the honorable member proposed—that amendment, if adopted, giving power to a committee of the House to direct money to be expended, when in fact they had no such power.

Mr. WATMOUGH remarked that the expenditure had been under the direction of the Commissioner of the Public Buildings.

Mr. PARKER said it was for that very reason he desired to have the amendment which he proposed inserted, feeling much more disposed to sanction an outlay under the authority of one of their own committees than he would the act of any commissioner.

The question on the amendment of Mr. Parker was then put; and, having been negatived,

Mr. HARDIN inquired how it was possible the erection of stone arches over Tiber creek, and other repairs there, could require so large an appropriation as twelve hundred dollars? He was not aware upon what principle there could be such an expenditure for this purpose maintained, unless it was that peculiar principle on which some people of this city were known to act, namely: to get as much money as they could, and do as little work for it as possible.

Mr. CHINN went into an explanation of the measures taken by the committee, who, he said, after a full inquiry into the subject, deemed it necessary, in an economical point of view, not only to repair the broken arch permanently, but to have it otherwise protected by a solid stone wall of some length, in order to protect the bridge from the current.

Mr. HARDIN disapproved altogether of the manner in which the road had been constructed, as the whole expense that had been incurred by it, of nearly one hundred and fifty thousand dollars, would not avail, from the species of stone used in it. He, on the ground of economy, would now suggest to the chairman of the committee, that it was necessary to have a good stratum of hard limestone rock, four and a half inches thick, laid on the present road. This would, in the outset, appear an extravagant proposition, as it would cost, he calculated, about fourteen thousand dollars; but he would maintain that, unless this was done, and speedily, their former large outlay would be totally lost, as the road was evidently wearing away, and would entirely before November.

Mr. McKINLEY moved to strike out the item "for repairs of the avenue, four hundred dollars."

The motion was negatived: Yeas 42, nays not counted.

Mr. McKINLEY then said, as he could not conceive that twelve hundred dollars was wanted for the repairs of the north end of the Tiber bridge, &c., he would move to reduce the amount to six hundred dollars.

Mr. WARDWELL remarked that he was only astonished that three thousand dollars was not required, instead of twelve hundred dollars; and thought they were getting off cheap to have so low an estimate presented for what was necessary to be done. If they did not grant sufficient at once, it must be evident that they would be called on (as the honorable member must see had been the case in this bill for another object) to make it up by an appropriation, hereafter, for arrearages.

Mr. MERCER regretted to find the honorable member from Alabama [Mr. McKinley] was so querulous in opposition to all the appropriations that had been proposed that day. Works of this nature were required to be done in a permanent manner, and he did not suppose that this work could be done permanently at a less rate than was proposed.

Mr. CHINN said the committee had various estimates on the subject, and they were convinced it could not be done cheaper. They had adopted this estimate in preference to another which had been suggested, the cutting of a new channel and the erection of a new bridge, on account of the great expense that must have been created if they had—not less, probably, than ten or eleven thousand dollars.

The question on the motion of Mr. McKinley, to strike out twelve hundred and insert six hundred, having been then put, and the votes thereon being yeas 43, nays 68—no quorum—

Mr. McKINLEY, to save the time of the House, withdrew his amendment; thereupon,

Mr. McKAY rose to inquire as to the nature of the outstanding claims, for the payment of which there was an item appropriating three thousand seven hundred and twenty dollars? He desired to know whether an examination into the expenditure of the large amount voted by Congress for this road had been made by that committee whose proper province it was to have such examination made? He could not vote, until he was satisfied about this, to place such large sums at the disposition of any public officer, who, for aught that was yet known, had this outlay to make without being under any responsibility for it whatever. He had another objection to making these appropriations. The Commissioner of Public Buildings, it had been stated, had expended money before it was appropriated. What authority could be pleaded for such an act? Most unquestionably, none. What right, he begged to know, had that officer to employ laborers, as it had been stated he had done? Surely, he said, this made it high time for them to know whether the committee had done their duty in examining every item of the large expenditure for this road.

On motion of Mr. CHINN, the committee next took up the bill "to organize the several fire companies in the District of Columbia."

Mr. CHINN moved an amendment, the effect of which was, that a fire company, with an apparatus worth five hundred dollars, should not exempt from militia duty more than fifty men—and with an apparatus worth one thousand dollars, not more than seventy-five men; which was agreed to.

Some other amendments of minor consequence were added, when the bill was laid aside, and the committee took up the bill to incorporate the Washington National Monument Society, on which a debate of much interest arose, and was in full progress, when it was discovered that the committee were discussing a bill which had not been referred to them. The debate, of course, was immediately dropped.

The committee next considered the bill concerning the Insurance Company of Alexandria.

Mr. CHINN moved a proviso, reserving to Congress the right to alter, modify, or repeal the charter, at pleasure; which being agreed to, the bill was laid aside.

The next bill taken up was the bill "for the benefit of the City of Washington."

Mr. STODDERT (from the District Committee) called for the reading of the report which accompanied the bill; and it was read at the Clerk's table.

Mr. MANN, of New York, declaring himself entirely hostile to the bill, moved to destroy it by striking out the enacting clause. He was not prepared, he said, to adopt the debt of the City of Washington, (for such would practically be the effect of the bill,) for the sake of advancing a favorite scheme of internal improvement. He knew of no principle of right, justice, or public policy, which required it at the hands of Congress. It was but the entering wedge, and the end would be that Congress would have to pay the principal of the debt. The contracting of it had been a mere private transaction, and Government could not be called upon to interfere for the relief of the party embarrassed by it. He knew that the corporation was insolvent, and that the taxes of the people were intolerable; but it was not for him to prescribe the remedy. Congress could not, in its public character, proceed to acts of charity; its members were sent here to do justice; and it was not justice that they should assume the debts which a corporate body had improvidently contracted.

Mr. STODDERT said that he could not have believed, had not facts convinced him, that the District of Columbia could have been an object of such narrow jealousy to the States of this Union. To relieve its inhabitants was not merely within the competence of Congress—it was their imperative duty. As to their power to appropriate money to the benefit of any portion of this District, there was no man who could deny or dispute it; they stood to the inhabitants of the ten miles square in the same relation which a State Legislature sustained towards the citizens of any one of the States. And were a similar application made to a State Legislature, would the petitioners be met with such language and such reproaches as had been thrown out with respect to the people of Washington? The sum of the national prosperity, Mr. S. observed, was made up of its parts; and if it was the duty of Congress to promote the good of the whole, it was not its duty to suffer any of the parts to perish. If they had fallen into circumstances of difficulty out of which it was impossible for them to extricate themselves, it was surely competent to a paternal Government to step in for their relief. This had been done on former occasions: when Alexandria had suffered by fire, and the people of Caraccas by an earthquake. He might, therefore, stand on the force of precedents—but he placed this bill upon higher grounds.

He would first reply to the argument of the gentleman from New York, [Mr. MANN.] It was not true that the committee designed this bill as an entering wedge to make way for a final adoption of the whole debt of the city. They had expressly denied and disavowed any such purpose; and had provided, in so many words, that the payment of this interest should be continued for three years only. It never had been their purpose to assume the Holland debt: they had never thought of such a thing. As to the charge of improvidence, on which the gentleman was for refusing this relief, he thought the act of the city, which had in a great part contributed to bring them into their present situation, ought to be characterized by any other term. So far from its being a measure of reckless improvidence, he held it to have been one in the highest degree public spirited and praiseworthy. They had subscribed largely to a great public improvement, which promised in the end to advance the prosperity of the city and relieve it from every embarrassment. Delays had occurred; and they found themselves now sinking under a load of debt. Was it not the duty of the Government to relieve them? Let gentlemen consider that the Government held real estate in this city to the value of more than a million of dollars; and that they had actually received upwards of seven hundred thousand dollars—from what? from taxation? from putting their hands into the pockets of the people? No, not at all: but from the voluntary donation of private individuals; from donations to the United States in trust; and the question was, how it was to be administered? Mr. S. held in his hand the articles of cession; and any man who would examine them would see that these lots had been granted in trust for the public benefit. No man could suppose that these individuals would so have contravened the philosophy of the human heart as to give away their property to the people of the rest of the Union. It was a preposterous idea that the people of this little district of ten miles square should become the almoners of the United States: They ceded their property for the benefit of the future city. This was the inducement; and this the only legitimate use to which their property could be applied. The trust could not be administered for federal purposes. Let us, then, said Mr. S., resort to the documents, and see how this trust stands.

The receipts from the sales of city lots ceded to the Government amount to seven hundred and thirty-two thousand seven hundred dollars. From this sum is to be deducted one hundred and eighty-six thousand eight hundred and sixty dollars, expended for the improvement of the city: but it is to be borne in mind that, of this last sum, one hundred and twenty-one thousand dollars was for the erection of a penitentiary. And is this a mere local structure? It is for the purpose of confining those who violate the criminal laws of the United States, not only in this city, or this District, but in any part of the Union. And, if it should be deemed economical to do so, convicts may be sent here from any of the States. So far as this goes, it is strictly a federal prison: though I admit that it is for the use of the city also. As to the sum expended on Pennsylvania avenue, he denied that that was to be considered as an expenditure for the benefit of the city alone. Its main object has respect to the Government, by facilitating the passage between the Capitol and the public offices.

Mr. S. went into some other statistical details, the result of which was, that, even allowing four hundred and seventy-six thousand dollars to have been expended for city objects alone, it still left a large balance of money actually received, which the Government held as a trustee for the benefit of the owners. What justice was there in giving it any other direction? Mr. S. would have thought that the State pride of every man on that floor would of itself have been sufficient to induce him to reject with scorn the very idea of applying such a fund to federal or State uses. The appropriation in the bill involved no encroachment on the federal treasury: it was to be taken out of a fund derived exclusively from the donations of private individuals. The Government had had possession of this property for years; and now they were called upon simply to pay their debts; to advance money for which they had received the amplest compensation.

Again; the Government held not only the most valuable part of the city as their own, but the property they thus assumed to hold, as proprietors, had been exempt from taxation. The Government had imposed upon the people of the city a new and extraordinary scheme of building. They compelled them to construct their streets of three times the width of ordinary streets in other cities; they obliged them at once to go upon a grand scale, and not to allow the improvement of the city to develop it-

self gradually, according as its resources increased; which policy greatly enhanced their burdens. In the meanwhile, the gratuity which had been conferred upon themselves was held and enjoyed without taxation of any kind. Mr. S. insisted it was a case of sheer justice, of obvious, imperative duty. Congress had received property in trust, and they were bound to fulfil their trust. He would even go further. He did not regard this District as constituting a distinct community, like the States; nor were its relations to Government exactly like those of the Territories. The framers of the constitution had intended to provide for the people of the whole United States a certain exclusive portion of territory, for the general advantage of the whole Union; and they had therefore conferred upon Congress the power of exclusive legislation, in all cases whatever, over its inhabitants. Here, then, was no possible conflict of authority; the power had been vested expressly, to the end that money might be expended here for the use and convenience of the representatives of the people. Hence the costly buildings erected by the Government; hence the beautifying of the public grounds; hence the improvement of the avenue connecting the Capitol with the President's house; and would it be consistent with this policy, that Congress should suffer the very city which it inhabited to be overwhelmed with debt, and fall into a heap of ruins? Every State in the Union had an interest in the prosperity of this their common city; yet such was its present situation, that either the city must sink under its hopeless embarrassments, or Congress must extend a helping hand to its relief.

Mr. MERCER had never, he said, known any subject to be discussed here relating to the City of Washington, without an attempt on the part of some members to build up a popularity elsewhere, by abusing and making a sport of the unfortunate citizens of the District. Mr. M. went on to argue, that every capital in Europe had been built up at the expense of the Government. The policy which was proposed in regard to the District was, therefore, neither new nor extraordinary. The Chesapeake and Ohio canal, for which the city had contracted a heavy debt, was a work which was every way entitled to the aid of the Government. He would refer the gentleman from New York to the example of his own State. The Delaware and Hudson canal stock was, at one time, worth little or nothing. The company applied to the State for relief. The State loaned to the company its credit; the canal was completed; and now its stock is greatly above par. Mr. M. went into many statements to prove that the Chesapeake and Ohio canal, when completed, would be more productive than any similar work in the United States or in Europe; and that, in reference to the perpetuity of the Union, it was more important than any other work in the Union.

Mr. STEWART said that, as the grounds on which he would give his vote for this bill were essentially different from those assumed by other gentlemen on the same side, he would state them as briefly as he could. The relief proposed by the bill had been represented as a mere gratuity—as a grant without consideration He did not view it in this light. The question was, whether this Government, the proprietor of half the lots in this city, together with lands and buildings valued at six millions of dollars, benefited and enhanced in value by every dollar expended in it, would, because they had the power as the local Legislature, exempt their property from taxation, and continue to throw the whole burden of opening and improving forty miles of magnificent streets, in this national city, on the few people who had came and settled in it, to minister to the wants of the Government and its public officers located here. The sixty thousand dollars now proposed to be granted for three years would not exceed one per cent. on the valuation of the public property in this city, while that assessed on individual property was perhaps double that amount; and in some cases amounted, according to the report of the committee, to four and a half per cent.; more, in fact. than the property would rent for. The public property had been exempted from taxation for thirty-four years; in that time we had sold lots to the amount of seven hundred and thirty-four thousand dollars. Property held by the United States within the States was liable to taxation; and why should it not be here, especially when its expenditure promoted our personal comfort, and the improvement of the public property? It is now proposed by this bill, to pay a proportionable tax for three years only, to relieve the people of this city, who are no longer able to bear up under their burdens; and the question is, will we do it? or will we see the people of this city, and the city itself, sink under it? Surely not. This pittance will not be withheld. It was due to the national honor, to the national pride, to avoid the deep disgrace, in the eyes of foreigners, of beholding this national city, the City of Washington, founded by and bearing the name of the father of his country, become bankrupt, and bankrupt, too, in a noble and patriotic effort to advance the national interest and glory, by the accomplishment of a great national improvement.

But justice required the passage of this bill upon another ground. For the last five or six years, this city, in addition to its other burdens, paid about $60,000 as interest on a million of dollars expended on the Chesapeake and Ohio canal; a work not local, but eminently national in all its aspects, connecting, by the nearest and best route, the Atlantic seaboard and the seat of Government with the vast valley of the Mississippi. This work, being national, ought to have been accomplished by national means. As its benefits are national, it was but reasonable that the nation should take the burden for three years off the shoulders of this city, and enable it to stand up until the work reached its great source of revenue, the coal mines at Cumberland. This would be accomplished in three years, when Congress, and the city, too, would be forever relieved from this burden.

But it is said by gentlemen that this is but an entering wedge—that this burden would become permanent--that this canal would be unproductive. Now, so far from this being true, he had no doubt that, from the moment the canal reached the coal mines, its revenue would not only pay the interest accruing on the Holland loan, but also all the ordinary expenses of the city. This was an opinion not hastily formed; it was formed upon a minute and careful comparison of the advantages of this canal, as to distance, lockage, sources of revenue, and every other material consideration, with similar works in this and other countries, and the result was a firm and settled conviction that, after this canal reached the coal mines at Cumberland, taxation in this city would cease. He pronounced the opinion with confidence, that the proceeds of this stock would be equal to the whole amount required to defray the expenses of this corporation, which was stated at $117,000. He would not, at this late hour, detain the House by a reference to all the evidence upon which this opinion was founded; but he would state, in a few words, what had been the result of several canals lately completed in Pennsylvania, leading to coal mines, from which gentlemen might draw their own conclusions. The facts were derived from the report of a committee of the Senate of Pennsylvania, who had given a whole year's attention to the subject.

In that State numerous canals had been conducted to coal mines, and they had all been attended with similar results. While those works were in progress, as here, the stocks were depressed, and the canals unproductive; but, as soon as they had reached their destination at the coal mines, the stock had risen from one hundred to three hundred per cent., yielding from ten to fifteen per cent. on the

cost of their construction. As an example, he mentioned the Schuylkill canal. When this canal was completed to the vicinity of the coal banks, in 1825, the whole tonnage upon it amounted to only 5,306 tons per annum; the stock was worth little or nothing. In a few years after, when the mines were opened and a railroad made to carry the coal to the canal, the tonnage increased to 250,588 tons, yielding a revenue of about fifteen per cent. on its original costs, and the stock rose from below par to $130 for $50 paid in. Like results had attended the completion of numerous other coal canals, both in this country and Europe, and similar and even more favorable results we had a just right to expect from the extension of the Chesapeake and Ohio canal to the inexhaustible coal mines at Cumberland, especially when we consider the great advantages enjoyed by this work in many respects over any other in the Union.

Near Cumberland the Potomac cuts its way through coal banks twenty feet in thickness, which can be thrown from the banks into boats with a shovel. This was bituminous coal of superior quality, found no where else east of the Alleghany mountains. In Pennsylvania, the anthracite coal was found less than 100 miles from Philadelphia, and was there sold at $5 per ton, or 18 cents per bushel. The bituminous coal they had to carry 287 miles, by the Susquehannah, Union, and Schuylkill canals, and cost $9 per ton, or 30 cents per bushel. Now, it was susceptible of mathematical demonstration, taking the cost of transportation and the rate of toll charged on other canals as the basis of calculation, that the fine bituminous coal at Cumberland could be delivered on tide-water, at this city, for 12½ cents a bushel, or $3 50 per ton. Thus—

	Cents.
Cost at the mines, per bushel, - - -	2
Transportation, at the usual rate, - -	1
Tolls, at ½ cent per ton, per mile, being the usual charge, - - - - -	3
	6

This was an estimate furnished by a gentleman of the highest respectability, familiar with the subject, and living on the spot; but let it be doubled, and you have 12 cents per bushel. This being established, it was clear that, although it might not displace, in a material degree, the anthracite coal of Pennsylvania, yet it would certainly supply the whole sea-board, Boston, New York, Philadelphia, Baltimore, &c., with the bituminous coal, required for many uses to which the anthracite coal could not be applied—the working of iron, propelling steamboats, manufacturing of gas, coke, &c. Gentlemen ask, where will be found a market for this coal? The demand would only be limited by the ability of the canal to supply it; the felling of the forests and the progress of the arts were daily creating new demands for coal. The coal trade would soon be one of the most extensive and profitable branches of our foreign as well as internal commerce; considerable quantities of coal had already been exported; and when, by the means of these canals, it could be brought, at a reduced rate, to the sea-board, its exportation abroad would be greatly increased. To show the increasing importance of this trade, it was stated, in the report just referred to, that the amount paid for coal in Philadelphia was about $3,000,000 per annum; and that, if the demand continued to increase for ten years to come as it had for ten years past, the amount in 1843 required there would be $52,544,450 worth. Do but furnish the means to complete this great work, now more than two-thirds done, to the coal mines at Cumberland, and he would guaranty that there would not only be an ample market, but gentlemen might dismiss all apprehensions about being burdened with the payment of the interest on this city debt. The work would realize a higher interest than any similar work in the United States, or, perhaps, in the world, and enable the Government to dispose of the stock which they might invest in it greatly above par. Such had been the result on all other canals conducted to coal mines, and why not on this? The advantages of this work, in reference to climate, position, and sources of revenue, are greater than any other. It has inexhaustible supplies of coal, lumber, iron, lime, and marble, superadded to all the usual supplies of travel, commerce, and agriculture.

He therefore contended that the relief sought by this bill was but temporary; and that there was no kind of foundation for the allegations made by the gentleman from New York and the gentleman from Kentucky, that this was but an entering wedge, and that the canal, after it reached the coal mines, would continue unproductive. Until it reached that point, no one ever pretended that it would be profitable. The coal of Cumberland and the commerce of the West were the great and productive sources of revenue to which its friends had always looked to remunerate those who patronised this great national undertaking, on which there had already been expended $4,000,000, more than two-thirds of the whole sum required to complete it to Cumberland, where he hoped to see it soon conducted by the passage of another bill, reported early in the session, granting a second million of dollars to this noble enterprise; and when it reached this point, and the stock is raised in the market, as in the case of the Pennsylvania coal canals, all further difficulty to the progress of this great bond of national union to its ultimate destination, at the Ohio river and the lakes, will be completely removed. Public spirit and patriotism aside, show capital that it is profitable, and the object is achieved - reach Cumberland, and, my word for it, the difficulty is overcome, the great object is secured. The East and the West will be united by a bond of union, which, even should all others be sundered, will remain firm and unbroken forever.

After some further debate, in which the bill was opposed by Messrs. HARDIN and MANN, and supported by Messrs. CHINN, and WARDWELL,

Mr. VINTON moved the committee rise; which was carried: Ayes 62, noes 60.

The committee accordingly rose, and the bills passed through the committee were reported to the House, and progress made on the last bill.

The House then adjourned.

SATURDAY, JUNE 7.

On motion of Mr. HUBBARD, the consideration of the reports of the committee on the Kentucky contested election, which was the unfinished morning business, was postponed until Tuesday next.

THE PUBLIC DEPOSITES.

Mr. J. Q. ADAMS remarked that he believed the time had come, for which he had been waiting nearly two months, when the resolution, formerly submitted by him, calling for information as to the State banks, was then next in order to be considered.

The SPEAKER having ascertained that it was so,

Mr. ADAMS said he would modify the resolution to read as follows:

Resolved, That the Secretary of the Treasury be directed to lay before this House the names of the presidents, cashiers, directors, stockholders, lawyers, and solicitors of all the banks selected by him as depositories of the public moneys in the place of the Bank of the United States and its branches; together with the amount of stock in said banks held by each stockholder, and the amount of debt due by each president, cashier, and

director of each of the banks to the said bank, at the time when it was selected as a depository, and at this time.

The question being on the adoption of the resolution—

Mr. CAMBRELENG said that, as he did not consider information as to the private debts of the individuals named in the resolution to be at all necessary for the House to have, he would suggest to the honorable member from Massachusetts that the resolution should be further modified by him, so as to require only the aggregate amount of debt due by the presidents, directors, &c. of these institutions. Presuming that the honorable member was actuated, in calling for the information, by motives of a public nature only, he was persuaded that he would only seek to attain his object in such a way as not to cause injury or inconvenience to any individual. He presumed that the object of the gentleman was to ascertain the amount of debt due by these individuals, which he was perfectly justified in having, that it might be known whether the capital that ought to be in these banks was not improperly employed, and the institutions thus weakened. For this object, however, the aggregate amount of debt due by them would suffice.

Mr. J. Q. ADAMS said that the information stated by the honorable member from New York [Mr. Cambreleng] was not what he desired. He desired to have the statement of the debt, as well as of the stock, held by the president and directors of these State banks respectively. The aggregate amount, therefore, could not furnish that information which he had called for by the resolution. His object was certainly, in calling for it, of a public nature, and was not intended for the gratification of any personal feeling. He required it, because it was what he supposed would be vitally interesting to the public. It must be interesting to them to know the condition of institutions selected as public depositories. The amount of debt, the proportion of stock that had been, as well as the amount which was at present held, would give full and a better insight into their condition than any other means they could devise to acquire it.

He would add further, that the information as proposed by his resolution was essential to ascertain the safety of the State banks for the object for which they were recently selected. It was essential to ascertain the character, the credit, of these banks. This was made necessary on the part of the public to have known, when it should be recollected that many, very many, banks had been governed by directors chosen from year to year, but who, apparently having large interests in banking institutions, yet had been known not to have one dollar vested in them in reality. Such might be the condition of some of those who then had at their discretion the control of the funds of Government, as well as that of private individuals. The manner in which this control was acquired was this: at the commencement of a banking institution, it was in the power of a favored individual, or individuals, to put his name down for 50,000 dollars of stock, giving therefor, to the institution, their own promise to pay. This being what was commonly called a stock note, upon this the stock being obtained by each respectively. The person obtaining it has the power to vote thereon, to appoint directors at pleasure, whilst, in fact, there may not be placed in the institution one dollar of real capital; the person so acting owing to the institution the whole amount upon the stock of which the power to vote was claimed and exercised.

It was for the purpose of ascertaining, then, whether any banks, usually called "family concerns," so managed, had been selected as trustees for the management of the public money, that he had been induced to offer the resolution; and it was precisely the information objected to by the honorable member from New York, which it was necessary for Congress to have, that it might be seen whether any of these trustees, who had the control of the public funds committed to their charge, were in the situation which he had described. The information, as to the quantity of stock held by private stockholders, was not what he desired. It was full information as to the condition of the selected banks, with regard to the debts due to them by their own officers, acting as public officers and trustees of the property of the people, that he required.

Mr. STEWART said he could not see any possible valuable object to be attained by including in the call the names of "the lawyers and solicitors," whose residence might, for aught they knew, be scattered all over the Union. He thought that the call for information might with as much propriety be extended to the various agents employed by these institutions. He moved to strike out the words "lawyers and solicitors."

Mr. POLK said that he did not perceive what object the honorable member from Massachusetts could have in view by the resolution. But, let the object be what it might, the same information proposed by it to be obtained from the State banks, it was as necessary to have from the Bank of the United States; and, with that view, when in order to do so, he would move the following as an amendment, viz:

"The Secretary also communicate to this House the amount of debts due by the president, cashier, and directors of the Bank of the United States to said bank at this time, or at any time within one year last past, and also the names of the lawyers and solicitors of the Bank of the United States and branches, and the amount of debt due by each to said bank at this time, or at any time within one year last past."

This amendment, Mr. Polk said, might have the effect of procuring information which other means had failed to elicit. He cared not to what extent the inquiry was proposed into the condition of the depository banks, provided the honorable member would allow the inquiry to proceed *pari passu* into the affairs of the Bank of the United States. What power the Secretary of the Treasury might have to procure the information from the State banks, he knew not. But it had been said that there were no legal means by which he could compel them to give it; none, in fact, unless it should be voluntarily given. From recent events, however, the House were not now to learn that, with power greater than the Secretary's, they had not been able to procure such information as they had desired from the Bank of the United States.

Mr. STEWART inquired if it was possible for the Secretary of the Treasury to communicate the information called for by the resolution?

Mr. COULTER said he felt very little solicitude for the fate of the amendment proposed by his colleague, [Mr. Stewart,] although he would not vote for it. He had no doubt that the honorable member from Massachusetts, in submitting his proposition as it stood, was actuated solely by objects of public consideration, worthy of himself, of the House, and of the nation; and he was willing to go with him in having this information, because he believed that the State banks had been (whether constitutionally or not, he would not stop then to discuss) converted into fiscal agents for the receipt and disbursement of the public treasure. Being then fiscal agents, he thought it became their duty to make manifest to the House their own situation in every particular in which that situation could have a bearing on the safety of the public money intrusted to them for safe keeping. In this view it was he felt that the information called for, as to the names of the lawyers and solicitors, was correctly called for; that it might be known whether any of these institutions intrusted the management of their corporate funds to incompetent agents, or whether to persons who were connected in any degree with the Treasury of the United States itself. This it was particularly necessary to know,

as there was an act passed in 1789, by the provisions of which any persons having the disbursement of that treasure was prohibited from entering into any business or engagements of such a nature whatever as would have a tendency to make the custody of the public money hazardous in their hands. He would openly avow that this was one object which he had in supporting the resolution, because it had been stated in the public papers of the day that the present Secretary of the Treasury, in contravention of this act, regulating the duties of his own Department, was not only a large stockholder, but held the appointment of attorney to one of the very banks selected by himself as a depository for the public money. If this was so, then he was desirous to know it; and, to obtain this knowledge, he felt compelled to vote against the amendment of his colleague.

He would not inquire whether the Secretary of the Treasury had the power to cause this information to be given; for, if he had it not, he ought to have had it, as it was by his own act the public treasure had been placed in these institutions, and Congress should hold him accountable for the funds so put by him into these State banks. Under the circumstances in which the country was at present placed, with respect to the public treasure, he was anxious to have all the information that could be given as to the condition of the State banks, and it was therefore, he confessed, with regret that he saw the honorable member from Tennessee disposed to clog its being procured by the amendment which he had proposed: for this amendment was not necessary when it was recollected that the subject of it was, at that moment, pending in another shape and in another form. Anxious, then, as he was, with that gentleman, that full information should be obtained from the Bank of the United States, he believed that it was in the power of Congress to obtain it legally; holding, as he did, that the bank was their fiscal agent for revenue purposes, and, as such, under the control of Congress, who could as lawfully inspect its proceedings as they could that of any other functionary. He hoped, therefore, every information would be forthcoming. For the same reason, then, that he thought Congress had this right, he would maintain that, as the State banks were intrusted with the possession of the public treasure, we had a similar right to call for information from them.

Mr. EWING said that, when he had originally submitted the amendment as to the lawyers and solicitors, which the honorable member from Massachusetts had adopted as a modification of his resolution, he had no idea it would have caused such a discussion; his object being simply to present to public view and to public execration the names of those solicitors who were pocketing, out of the institutions which had been selected as fiscal agents of the Government, the means by which they were bellowing, for selfish purposes, against another and a better institution. His object was to counteract the poison disseminated in the official organ of the Government itself, and show to the world what was asserted in that paper to be bribery and corruption on the part of the Bank of the United States, by eliciting the fact that, if fees to lawyers be bribery, then they were given ten to one; ay, he might say in the proportion of twenty dollars to one, more by the State banks than by the other much ill-used institution. But it was a misnomer to term these State banks. With the exception of one, he knew of none that deserved to be called State banks. No. They were a set of institutions generally intrusted to the guidance of political partisans; and it was his main object to show them up, that it might be seen who it was that were truly pocketing large amounts in the shape of bank fees, and who it was that were engaged in crying down the Bank of the United States, with the view of upsetting a sounder currency for the purpose of substituting one of their own—of filthy rags. He questioned the relevancy and the propriety of the amendment proposed by the member from Tennessee, [Mr. POLK,] whilst the subject was pending before the House; and he could not but feel the more anxious that the resolution calling for information should be insisted on, as to the condition of the State banks, when he heard that it was made a matter of doubt that the Secretary of the Treasury could procure it. This alone would make him insist on having it; that, as these depositories had now more of the public money than the Bank of the United States, the people might be timely warned of the dangerous state in which their treasure had been placed, and see the consequences of persisting in the present ruinous, rash, and mad "experiment."

Mr. MILLER trusted that the resolution would be adopted, and that no objection would be made to its adoption on the part of any friend of the administration, holding, as he did, that it was not only their right, but it was the bounden duty of Congress, to have full information of the condition of those institutions in which the public money was deposited. It would, indeed, be good cause, he thought, if they had not this power to inquire into them, or if the bank should refuse the information when called for, to remove the deposites from the State banks. He desired to have the same information from the Bank of the United States. Trusting that its friends would not have any objection to its being given, he would vote for the resolution, and for the amendment of the member from Tennessee.

Mr. GILLET hoped that, as the proposition was made for inquiry, no member would be found refusing his aid to have the same information procured from one institution that was derived from the other. He maintained that it was important to know the precise situation of all the banks in which the public money was deposited. For, if they were in an unsound state, what better reason could be furnished for their restoration to the place from whence they were taken?

The question having been then put on the amendment of Mr. STEWART, to strike out the words "lawyers and solicitors," it was negatived.

Thereupon Mr. POLK, as he had previously intimated, submitted his amendment, calling for information from the Bank of the United States.

Mr. J. Q. ADAMS rose and said that, if the honorable member from Tennessee [Mr. POLK] was disposed to modify the amendment, and make it only co-extensive with the call for information for inquiry into the State banks, he was perfectly willing to accept it as a modification of his own motion.

The amendment of the honorable member went further than that proposed by him. He not only proposed to extend it to the lawyers and solicitors, but he desired also to know the proportion of private debts due by them respectively. This was a sort of inquiry which (Mr. A. said) he had himself never centemplated. As he had already stated, he was willing to extend the inquiry, to have it known who were the lawyers and attorneys of the United States Bank, as well as of the State banks designated; but he could not accede to have the resolution further extended, lest they would be entering upon grounds of a questionable nature, as to the right of the House to make the call.

Mr. BEATY proposed, if in order, to amend the amendment of the honorable member from Tennessee, by inserting the following words:

"*Be it further resolved*, That the Secretary of the Treasury also inform the House of Representatives whether the President of the United States, heads of Departments, and Treasurer, have been in the habit of keeping their private accounts in the Branch Bank of the United States, in the City of Washington; and at what time did

they, or either them, cease to keep their accounts in said branch bank."

Mr. SELDEN suggested some alteration in the phraseology of the amendments, which he thought might obviate some difficulties in procuring that information from the State banks, as well as from the Bank of the United States, of which gentlemen on all sides of the House seemed now desirous.

Mr. J. Q. ADAMS said he would accept of the amendment suggested by the honorable member from New York, as a modification. He presumed that it was not the object of the honorable member from Tennessee to introduce matter, as necessary to be inquired into, with any view of defeating the object he had proposed by the resolution. He (Mr. A.) could not expect that the honorable member would take such a course, and he hoped, therefore, that he would not persist in requiring the inquiry, which he had originally proposed, to be extended further as to the Bank of the United States than he had proposed to extend it to the State banks. Besides, he must recollect that the information he now asked for had been several times communicated to Congress. The only thing that was not in possession of the House, he believed, was the information called for, to which he did not object, being the debts due by the president and directors, respectively, to the institution, which there could not be any difficulty in having procured.

Mr. POLK said, as the question before the House was on the amendment proposed by the member from Kentucky, [Mr. Beaty,] for an inquiry of a still more extended character than that contemplated by the resolution, he must now advert to it, and say that he was perfectly ready to meet it. But, whilst that honorable gentleman proposed to inquire into the private bank accounts of the President, heads of Departments, and Executive officers, he (Mr. P.) would go still further, and include along with them the members of the Judiciary, of the Legislative branch, and all others connected with the Government. This inquiry it was, in fairness, due to have made into the affairs of all public officers, if of any; and, when such was proposed, as he was himself from a whole-hog country, he could not be unwilling to be met on a whole-hog principle. If examination was to take place, he desired it should not be into isolated facts, from which the country might be drawn to infer that, with respect to them, which might not be true. The member from Indiana [Mr. Ewing] had let out the secret, that it was intended to ascertain whether the Secretary of the Treasury might have been an attorney of a deposite bank.

Mr. EWING appealed to the House to say whether he had used the Secretary's name at all.

Mr. POLK. Well, then, I am corrected. I find it was from another honorable member this came, and was avowed as a reason for inquiry. But, if inferences were to be drawn, (Mr. P. said,) the House should have the facts all spread at large before the public.

The debate was here arrested by Mr. STEWART, who called for the special orders of the day, being the consideration of bills in relation to the

DISTRICT OF COLUMBIA.

The House then went into Committee of the Whole thereon, (Mr. Briggs in the chair,) and resumed the consideration of the bill for the benefit of Washington city.

Mr. PARKER, having the floor from the previous day, rose and said he felt every disposition to relieve the city from the burdens under which it must, if that relief was not given, evidently break down, provided that they could agree upon the means and manner in which that relief could be accomplished. The committee, in the report presented by them, went into statistical statements, basing their application for relief, first on the benevolence of Government, and then upon other grounds. The question for the House, then, to consider was, as to the power and obligation upon Congress to appropriate it. In the course of the debate, he said, much stress had been laid, that the claims of the city were strong upon Government, because much of the embarrassments under which it labored arose from circumstances connected with the original cession of the land where it was situate, and upon the plan and extreme length with which the streets of the city had been laid out, which rendered it necessary for the corporation to level hills, fill up hollows, &c., at considerable expense. He must, however, contend, anxious as he was, nevertheless, to afford them relief, that, for the parts ceded to the Government, the city had received a fair equivalent, and more than that, from the General Government. For what was the situation of the land, and what was its value, comparatively speaking, to what it then was, from having been selected by the father of his country as the seat of the General Government? He denied, as was contended by the advocates of the city, that it was any thing unusual or any hardship that it should be deemed that this Government should be exempted from paying taxes to the city, conceiving that there was no instance to be found of a Government taxing itself.

Mr. P. here read several statements, to show that the expenditures by the Government, in the erection of the various buildings, amounted, up to 1826, to $3,674,849, which he said would rebut the statements, that much detriment had occurred to the city, because, as was alleged, the Government had not improved the property that had been given to them; and, on account of which it had been also said they were partaking in all the benefits arising from the outlay for the improvement of the city, whilst they did not contribute a fair share, or any thing like it, to the benefits derived from the lots given to it. Mr. P. made several other statements to show that the value of those lots was generally exaggerated; arguing that if, in fact, they could find purchasers for them, it would be good policy, to dispose of them and take up, with the proceeds, the stock of the corporation. He, however, begged to be understood that, in making these remarks as to the expenditures of the Government in the erection of buildings, and as to the advantages derived by the Government from the lots given to it, he was not actuated by a desire to prevent relief being given, but he made them rather in vindication of the General Government from what he considered to be unjust charges preferred against it on this head. He was not for abandoning the city, believing that, if the debt, at present so onerous upon it, was removed, the city must eventually prosper. It was then for the committee, knowing that the city was insolvent, could not pay her debts or the interest upon them, now to say what was to be done. For something must be done, and speedily, or matters would be worse and worse.

This he thought it was the bounden duty of Congress, under the peculiar circumstances in which the city and District were placed, to attend to forthwith, without any reference to the question of right, (which he did not acknowledge,) in order to avert from it total ruin. He said he had no faith in the great advantages that honorable members said were likely to arise from the revenues of the Chesapeake and Ohio canal, when completed. The history of other canals throughout the Union showed how little reliance was to be placed on revenues from such a source. At all events, nothing could be expected —if even then—from this canal, unless the Government who, as well as the corporation, was so largely interested in it, as holders of its stock, should, as he hoped they would, take its management into their own hands, for the purpose of being completed. On the whole, he professed his willingness to join in any reasonable plan that should be proposed, in order to extricate the city from her embarrassments.

Mr. STODDERT said it was with great reluctance he obtruded himself again upon the attention of the committee, but the scruples of self-distrust must yield to a sense of duty. The situation of the community of Washington made a strong appeal to our liberal consideration, and, he must repeat, to our sense of justice. The objections which have been started by different gentlemen, and more particularly those raised by the member from New Jersey who had just resumed his seat, to the measure of relief proposed in this bill, seemed to his mind founded on a misapprehension of facts. Surely it could not be seriously thought that the expenditures made in the erection of the buildings essential to the convenient despatch of public business of this Government, should be regarded as local appropriations, especially enuring to the benefit of this city. They were public works, constructed for great public uses, and the property of the United States. Would not the pride of the States of this Union repudiate the idea that the Government they had erected, for federal purposes, should be indebted to private charity for the accommodation of all its great functionaries? Sir, such an idea is not to be tolerated for a moment. Is the cost of repairing the ravages of the enemy, in their Gothic warfare upon the Capitol and other public buildings, to be charged to this people? Mr. S. said he would exhibit an analysis of these appropriations, with the view of illustrating their character and object, and as the best answer that could be given to the argument of the gentleman from New Jersey.

1800, First appropiation, making a foot-way from Georgetown to the Capitol, $10,000.

In regard to the object of this improvement no man could be mistaken. Georgetown, at that period, the birthday of this city, afforded the only adequate accommodations for members of Congress, and he might add for the members of the Executive branch. For their convenience it was made, and with no reference to that of the few scattered inhabitants of Washington. The same remark applies to any other items of expenditure, which he would exhibit.

1803,	Improving Pennsylvania avenue, -	$13,466 69
1824,	Foot-ways between Capitol and Executive offices, - - - - -	5,000 00
1825,	Road adjoining President's square, -	1,080 00
1825,	Road around Capitol square, - -	3,018 00
1824,	Enclosing public burial ground, (Eastern Branch,) - - - -	2,000 00
1829,	Penitentiary in the District of Columbia, - - - - - -	121,480 00

This last item, it is true, was not designed for the accommodation of members of Congress and Executive officers, as were the others enumerated, but it was a federal structure, designed for culprits convicted of public offences against the laws of the United States, wherever committed within their limits. Economy was the only limit to its use, and he was taught to believe that this consideration would prompt the public authorities to make it serve this end, at least to the extent of the Atlantic States. Was this expenditure to be defrayed from the trust fund arising from donations? It would be quite as proper to charge your navy yard and fortress in this city to this account. The other two items of expenditure within this city are for the improvement of the Pennsylvania avenue, as to its carriage and foot-ways, and in aid of the Tiber canal. These latter appropriations are benefactions, not unalloyed by self-interest, (an enlightened self-interest, I admit,) on the part of the Government. The convenience of members of Congress, who necessarily have much intercourse with the Executive departments in the execution of their duties, and for the comfort and accommodation of such of our citizens as business or a liberal curiosity may attract to this city during the sittings of Congress. These were the reasons urged in favor of the appropriation, and he was bound to suppose had influenced the Congress which passed it. As to the other items for the benefit of the Tiber canal, he had only to say that, if this work enhanced the adjoining property, the United States would derive one moiety of the advantage, as their land run the whole line of the canal on one side. The gentleman from Kentucky had remarked that this canal would only serve to cheapen fuel to the inhabitants of Washington. Why should it not serve the purposes of trade and travel? But in the view taken, the Government would share the advantage equally with these memorialists; for the members of the Legislative, Executive, and Judicial magistracies, and the proprietors of real estate in this city, differ but little in point of numbers. Substract these expenditures, which were for the public convenience, and only incidentally for the benefit of this city, from the receipts in your treasury from the sales of building lots, and a large amount of this trust fund will still appear unexpended; a balance, if we include the donation of seventy-two thousand dollars by Maryland, exceeding half a million. But as the members of this Government, in its three branches, equal the tax-paying community here—I mean those subject to a direct tax—let us see what will be the result of dividing these burdens between this corporation and the Government. The aggregate cost of your good deeds will but little exceed $250,000. But, sir, is this narrow rule to prevail? Will you, by a vulgar parsimony, cast upon this impoverished people—an infant community just struggling into existence—any portion of those expenditures which were essential to the character and convenient to the ends of a seat of Government? This, sir, is the metropolis of our Federal Union; and shall its accommodations and embellishments, in no measure, be the purchase of our common treasure? The people of these States have a common interest and a common pride in the prosperity of this city: it is their place for holding their consultations and taking their resolves for the common good. They will never stint proper and necessary means for its improvement.

Mr. S. said he would revert to what he had asserted on a former occasion, in regard to the bargain between the United States and the private proprietors who had made these donations. He would repeat that the terms of the trust, though general, he could not understand, it could not enter into his imagination for a moment, meant that its avails should be used otherwise than for the improvement and embellishment of the city. One reason which induced this construction was, that the deed did not state to the United States in trust, for the common benefit of the States. This phrase, and an important one, was, he believed, to be found in all the deeds of cession of the western lands. The idea, too, was such as his mind could not grasp, that a few private individuals were to be so Quixotic as to scatter one-half their fortunes over so wide a surface of public interest as exists in the United States, without any definite object for the bounty. They state, it is true, as noted by the gentleman from New Jersey, that they were moved to this grant by the great benefits which were to result to themselves by locating the Government here. Might not the judicious use of this trust fund, for the growth and prosperity of this city, be within the range of this anticipation? But, sir, unhappily for these donors, all their bright visions of personal benefit have proved but deceitful dreams. They are, for the most part, impoverished and undone. The magnitude of the plan of this city was more than their resources could accomplish. They adventured the enterprise, and were ruined; and can Congress refuse to succor their descendants, and save to them the remnant of their fortunes? And who are the other memorialists, to be found associates with them? Emigrants from the States, who have sought a home within this city; our own brethren, "bone of our bone and flesh of our flesh," descendants

of the same revolutionary stock; and shall we turn from them, in this their hour of gloom and distress, with cold and alienated regards, as though they were aliens and strangers to us? What will our friends of the West say to this? Fellow-feeling will make them kind. They are now strong, but they will reach their days of weakness. They, too, went forth from among us, and cast their lots in distant places; but are they less our brethren, members of the same great Federal Union, held together by a golden chain of brotherhood, broad as our extensive domain, and lovely and endearing as the liberty we cherish? Shall not Congress look kindly upon this small community—the charge committed to its exclusive care by the constitution? If its legitimate guardian has no heart for its appeals for succor, whence can its help come? The deeds of cession of Maryland and Virginia stipulate for the paternal care of their children intrusted to your authority. Two neighboring towns once felt the smiles of their beneficence, and prospered. What is their condition and character now? Cities in decay, remnants of things that were.

It has been said in this debate, that the venerated and illustrious name which this city bears furnishes no reasonable motive to Congress to afford this relief. What other monument has Congress erected to the memory of Washington? It is true, his memory will live in his deeds, and that all human art is impotent to increase the solidity and splendor of his fame. If this city rivalled the proudest that are or have been, it could not add to his great and imperishable renown; but, as a memorial of a nation's gratitude, it might do well to grace the adamant of his name. Monuments are not for the benefit of the dead, but of the living. They are dumb teachers of public virtue. They inspire high and noble purposes, and nerve the mind to bold and heroic deeds. The name of Washington quickens the pulse of every patriot's heart, and fills it with lofty associations and grateful recollections. This city was the spot of his selection and the work of his hands. Its plan was formed and its foundation laid by him; and shall the Congress of the United States suffer it to sink into premature decay? Is a dilapidated and perishing city the fit memorial of the name of Washington? Posterity would blush for their ancestors, were such a reproach to survive us. The passage of this bill may save this city from ruin and Congress from reproach.

One other misapprehension, which may be mischievous in its operation, needs to be corrected. The United States have paid for the reservations—five hundred and forty-two acres only—and what? Thirty-six thousand dollars for seven hundred and forty thousand dollars' worth of lands. The building lots sold cost them nothing.

The question being on the motion of Mr. Mann to strike out the enacting clause of the bill—

Mr. SUTHERLAND addressed the committee, with much ardor, in support of the bill.

The question being pressed for by Mr. McKennan, was then taken, and the motion of Mr. Mann negatived: Ayes 51, noes 80.

Mr. PARKER moved an amendment, the effect of which would be to limit the application of the money appropriated to the payment of the interest of the Holland loan. He, however, consented to withdraw it for the present, with a view to move it in the House.

On motion of Mr. CHINN, the committee next took up the bill for the benefit of the city of Alexandria.

He went at considerable length into an explanation of the grounds of the bill; adverting to the situation and natural advantages of Alexandria; its former prosperity; the injury it had sustained by the action of the General Government; the origin of the Chesapeake and Ohio canal; the calculations of Alexandria when she subscribed to it; the complete change produced by bringing the canal into Washington; the insecurity of the river for canal-boat navigation; and the necessity of a lateral canal, to prevent the city of Alexandria from being utterly cut off from all the benefits of the trade brought down by the canal, and falling into decay and utter ruin.

Mr. CHILTON opposed the bill, on the ground that the canal was not needed on the banks of so fine a navigable river, and the multitude of streams in the West, which were in need of improvement, but had sought it in vain.

Mr. EVANS reminded Mr. C. that the work was begun, and in the course of completion, but must go to waste unless it received further aid. He further urged the general grounds taken in support of the bill.

Mr. MERCER declared his friendship for the citizens of Alexandria, and his interest in the success of the bill; but declined occupying the time of the committee by a speech.

Mr. CHILTON moved to strike out the enacting clause of the bill.

Mr. THOMAS advocated the appropriation in a short but pithy speech, in which he adverted to the sum granted by Virginia, when she ceded the District. All Alexandria asked was a portion of that which her parent gave the Government.

The motion to strike out was opposed by Messrs. Vinton, Stoddert, and Mercer, and negatived: Ayes 50, noes 83.

The bill was then laid aside to be reported.

The committee next took up the bill to prohibit the corporations of Washington, Georgetown, and Alexandria, in the District of Columbia, from issuing promissory notes or bills of any denomination less than ten dollars after the period therein mentioned, and for the gradual withdrawal from circulation of all such notes or bills.

Mr. CHINN moved to add a proviso to the bill, declaring that it should not be lawful for the corporations mentioned to issue new bills for less than ten dollars.

The bill further to amend the act incorporating the Chesapeake and Ohio Canal Company was next considered, and received some small amendments.

Mr. WILLIAM COST JOHNSON said he had received a memorial in reference to the subject of this bill, which he was desirous to present, but which he consented not now to offer, on the assurance that the bill should not be pressed in the House until he had time to state and urge any objections his friends might have to its passage.

The bill was then laid aside.

The committee having then taken up the bill to incorporate the Washington City Insurance Company—

Mr. SCHLEY moved to strike out the clause which exempts the directors from liability in their private property for the debts of the company; but it was negatived, and the bill laid over.

The following were then agreed to without amendment, viz:

A bill to incorporate the Clerks' Savings Company in the City of Washington;

A bill to amend the charter of the Potomac Fire Insurance Company of Georgetown;

A bill to incorporate the Georgetown Savings Institution;

A bill for the relief of Henry Awkward;

A bill from the Senate on the subject of a lateral railroad to Baltimore.

The committee then rose and reported the bills to the House.

The House, on motion of Mr. MERCER, went into Committee of the Whole on the state of the Union, (Mr. Hubbard in the chair,) and took up the bill authorizing the construction of a bridge across the Potomac, and repealing all acts already passed in relation thereto; and the

bill making appropriations for the public buildings and grounds, and for other purposes.

Mr. STODDERT moved to amend the first bill by adding a section appropriating $30,000 for the purchase of the Navy Yard and Anacosta bridges, so as to make them free like the Potomac bridge. He contended for the equity of such a measure; but it was negatived. The bill was then laid aside.

The bill making appropriations for the public buildings and grounds, and for other purposes, was taken up.

Mr. PARKER moved to destroy the bill by striking out the whole of it; but afterwards modified his motion by striking out the enacting clause, and was understood as finally withdrawing it.

On motion of Mr. FULLER, the bill was amended by striking out the following clause:

"For salary of gardener employed in superintending the Capitol square and other public grounds, lighting lamps, keeping grounds and walks in order, and planting in the Capitol square, three thousand two hundred and fifty dollars."

Mr. E. EVERETT proposed to amend it by removing the naval monument from its present situation to the square east of the Capitol; but, on a suggestion of Mr. WATMOUGH, modified the motion to remove it to the botanic garden; but, after some desultory discussion, the motion was rejected.

On motion of Mr. MERCER, the proposed wall round the botanic garden was stricken out; he desiring to have the western square enlarged; to which purpose such a wall would be an obstacle.

A long and very desultory discussion took place about the item for paving the semi-circular road and walk to the President's house; which ended in ordering the road to be gravelled, the side-walks laid with flagging.

Mr. VINTON moved to extend the square west of the Capitol to the foot of the slope, and to extend the botanic garden to the canal; but the motion did not succeed.

An item for enclosing Patriot square, in the rear of the President's house, was, on motion of Mr. HARPER, of Pennsylvania, stricken out.

A lively and somewhat entertaining discussion arose on Mr. SCHLEY's motion to strike out the appropriation of $6,000 for additional furniture (chandeliers and mirrors) for the President's house, (east room.) Some merriment was excited by an observation of Mr. JARVIS, in support of the appropriation, "that the House, after all, was not furnished as it should be—it was only a place of splendid misery."

Mr. EWING thought it very wrong that the people's house should be a place of splendid misery, or that those who inhabited it should make the people miserable: such a state of things ought not to continue: he hoped it would not. He did not understand that any new furniture was provided for the kitchen: he thought it needed it, and would be willing to increase the appropriation.

Mr. SCHLEY, finding that the articles in question had been furnished, and that there was no money to pay for them, withdrew his motion to strike out.

Mr. E. EVERETT moved an item of $2,000, for restoring the Speaker's chair to its former position in the hall of the House of Representatives.

The motion was opposed by Messrs. CLAY, BURD, R. M. JOHNSON, and HARDIN; and supported by the mover, and Messrs. EWING, SUTHERLAND, WHITTLESEY, PARKER, and MERCER.

It was eventually negatived.

Mr. ADAMS moved an appropriation of $1,000 for a monument over the grave of the lamented Major General Brown; on whose character he pronounced a brief but feeling eulogy.

It was agreed to without opposition.

Mr. WATMOUGH moved an additional section to the bill, extending the police of the city to the Capitol and other public buildings, when required by the commissioner. Agreed to.

Mr. FILLMORE now moved an additional section to the bridge bill, prescribing a mode of settlement with the contractor, Mr. Dibble; but it was rejected.

The committee then rose and reported the two bills; and

The House adjourned.

MONDAY, JUNE 9.

Mr. MILLER rose to ask the unanimous consent of the House to take up and dispose of the important resolution submitted by the honorable member from Massachusetts, [Mr. J. Q. ADAMS,] which, if to be acted upon at all, it was necessary, he presumed, to have taken up forthwith.

Objections having been made—

The House proceeded to the consideration of the

YORK COUNTY (PA.) MEMORIAL.

Mr. BARNITZ resumed and concluded his remarks in support of the views taken by the memorialists.

[Mr. B.'s remarks, in *extenso*, will be found in preceding pages.]

Mr. POLK said that, as he believed it was more important for the House to take up and dispose of the appropriation bills lying on the Speaker's table, he would ask the unanimous consent of the House to do so, supposing that they would rather take up these bills than sit listening to arguments on a very trite and exhausted subject.

Objections having been made—

Mr. POLK moved a suspension of the rule by which this day is assigned for the presentation of petitions, for the purpose of taking up the bills he had alluded to.

Mr. WISE rose to remind the honorable member that the memorial from Gloucester county, presented by him, upon which he had moved certain resolutions, had been lying over some weeks; he therefore hoped he would withdraw his motion to suspend.

Mr. POLK replied that he could not consent to withdraw the motion, leaving it to the House to decide whether they preferred to have an exploded subject revived. The Kentucky election case, he said, would come up and occupy the House for some days, to the prejudice of these bills, which required to be acted upon.

Mr. WISE begged to inform the honorable member that he desired to address the House, not upon an exploded subject, but upon an entirely new and most important one for their consideration.

Mr. DENNY said that he thought the presentation of petitions and memorials from the people was as important as any other business that could be transacted by the House; he would therefore call for the yeas and nays on the motion to suspend the rule; which having been ordered,

Mr. WISE called the attention of the House to the circumstance that he had felt it to be his duty to move that the memorial next in order should be referred, with certain resolutions declaratory of the full and complete power of Congress over the public treasure of the nation.

Mr. POLK. Upon the discussion of which I suppose the whole day will be taken up.

Mr. BURGES expressed his hope that the rule would not be suspended. He took this opportunity to say that he had himself presented a memorial, with certain resolutions, from the State of Rhode Island, which lay over for the action of the House.

Mr. WARDWELL rose to inquire if it was in order to discuss the present motion?

Mr. BURGES would merely state that the business for which this day was assigned was not to make speeches, as was put in derision by the member from Tennessee,

but to have the petitions of the people presented, heard, and attended to. He considered that such a remark as that made by the gentleman from Tennessee was most unjust and inexcusable.

Mr. POLK said he should not make any excuse to the gentleman from Rhode Island for any thing he had said.

Mr. BEARDSLEY inquired how many memorials were lying on the Speaker's table undisposed of, and open to debate?

The SPEAKER replied there were five.

The question was then taken on the motion to suspend the rules, by yeas and nays, as follows: Yeas 112, nays 65.

The motion was not sustained by two-thirds; and, of course, the motion was negatived.

Mr. MILLER then renewed his application to the House to take up the resolution submitted by Mr. Adams.

Some objections having been made, he moved a suspension of the rule, that the House might proceed to dispose of that subject.

The SPEAKER decided that the motion was not then in order.

THE PUBLIC TREASURE.

Thereupon the House proceeded to the consideration of the memorial from the inhabitants of Gloucester county, Virginia, praying the restoration of the deposites to the Bank of the United States. Upon which memorial Mr. Wise had, on a former day, moved the following resolutions:

Resolved, That the custody and control of the moneys of the United States, not appropriated by law, and not disbursed under appropriations by law, are, by the constitution, placed under the order and direction of the Congress of the United States; which order and direction must be made by law, in the form of bills or joint orders, votes or resolutions, upon which the President of the United States has simply the power of a negative, subject to a vote of two-thirds of each House of Congress.

Resolved, That no change of the constitution of the United States is necessary to authorize the Congress of the United States to intrust the custody of the public money, not appropriated by law, and not disbursed under appropriations by law, whenever or howsoever obtained, to other agency than that of the Executive department; and that the custody of the public money must not be necessarily, under the constitution, intrusted to the Executive department.

Resolved, That Congress can take out of the hands of the Executive department the custody of the public property or money, without an assumption of Executive power, or a subversion of the first principles of the constitution.

And that said committee be further instructed to report such measures as it may deem necessary and proper to provide for the future safe-keeping, control, and disposition of the public property and moneys, and to assert, maintain, and protect the constitutional powers of Congress over the public property and public purse.

On the subject coming up for consideration—

Mr. WISE rose and addressed the House as follows:

Mr. Speaker: This memorial, which I had the honor of presenting, from a highly respectable and patriotic portion of my constituents, calls upon Congress to vindicate its own constitutional powers, the supremacy of the laws, and the rights of the people. Such I consider to be, and such I regard as worthy of being, its chief object; to attain which I have moved its reference to a select committee, with instructions to report the resolutions which have been read to the House.

Sir, these resolutions affect the theory of our Government, and that theory solves the great problem of constitutional freedom and of popular self-government. Their importance may not be so striking to others, but it is overwhelming to me. When I approach their consideration, I feel, with unaffected sincerity and humbleness of spirit, the vanity of my undertaking the momentous task of their support, and cannot but regret that they are mine, and not the foster-child of some able, wise, experienced, influential, and distinguished father of legislation. There are men in this House, to whom I could say "*Te duce!*" and that which in my hands is weak would be strong—that which is insignificant would be big with importance—that which is abstract would be practicable—that which is nugatory and idle, merely declaratory and vain, would be powerful to make ambition withdraw its pretensions to power, or "to the pulling down of strongholds," if its pretensions to power are pressed. There are men here, I say, who already occupy an eminence to which I would ardently aspire—the high stand of virtue and wisdom above selfishness and ambition, of pride and patriotism above party and place, of usefulness to the country above subserviency to an administration, the elevated stand of the statesman above the grovelling level of the politician. My aspirations may be as vain as I know they are unfashionable at this day; but I have assumed the task, the risk of a failure; and, though I be unsustained, and not countenanced even in the attempt, I will endeavor to supply in zeal what I may lack in ability, to defend these resolutions, to demonstrate their present importance by their necessity at the present time, and to illustrate their truth for all time to come.

Am I to be told again in the outset, Mr. Speaker, that these resolutions have no legislative action in view; that they are merely declaratory; and that the abstract truths they assert none will deny? He has read English and American history in vain, or has read neither at all, who seriously raises this objection, or cannot answer it, when raised, at a moment's warning. I will not stop here to enumerate any or all of the precedents, or the incalculable effects of precedents, for the mere declaration of powers and rights: from the "saying of the hardy barons of old, *nolumus leges Angliæ mutari*," to Magna Charta: from Magna Charta itself, through the various revolutions of British history, to that glorious Revolution which begat the first true declaration of freemen's rights on this continent: from that to protest from protest, remonstrance from remonstrance, from declarations to deeds following during the Revolution: from independence to the constitution, and thence to the resignation of power by the father of his country, when he told us, in his farewell address, "frequently to recur to fundamental principles:" thence to the period of '98 and '99, when the declaration of the State Legislature of Virginia that the alien and sedition laws were unconstitutional and void produced their repeal: thence, through all the declaratory resolutions offered or adopted in relation to the powers of Congress up to this time, when thousands call with an authoritative voice on Congress, to vindicate, maintain, and protect its own constitutional powers, with their liberties involved, rudely attacked by flagitious abuses of power, and still more flagitious pretensions to power, by those who now unlawfully hold the power to enforce their claims! Sir, it is enough for me to know and to say that, in all cases where the people, in their primary assemblies or through their representatives, have seen fit to make such declarations, they have been induced to do so either by open or insidious, direct or indirect, attacks upon their rights, or upon the form of government which they had instituted as the palladium of their liberties. They have always had cause for such acts, and their object has invariably been a redress of grievances.

Is there no reason for a declaration of powers and rights by the representatives of the people at this time; and is there no object in view? That is the question. Am I to be told that "the people" do not call for such acts of

supererogation by Congress? I will not stop here to inquire who now are the people—those for or against the administration; but I will answer the question put to me by asking another. If the people do not call, are we to sit here, whilst the Capitol is in flames, until the people first cry "fire?" Is our federal constitution as impervious to encroachment and violation as this building is to the devouring element? Are we not sent here as vigilant sentinels of the people, to see first, to hear first, to know first, and then to warn our masters that their property, their political estate, is in danger of destruction? I repeat the question, then, has the time again come when we ought "to recur to fundamental principles?" I say it has; and I am told to say so by my constituents, whom it is my pride and pleasure to obey, and to whom I can pay no better compliment than by saying that, with the instinctive prescience of coming danger to free institutions, inspired by the spirit of liberty in freemen of every land, their memorial was ominously draughted in old Gloucester before the protest was concocted in the cabinet, and reached me here before the attack of the President reached the Senate. Sir, it came none too soon; for by the time of its arrival, there was a reason ready for these resolutions which now have an object of vital importance. As simple, isolated, abstract, fundamental propositions, all that can be said of them is, that they are true, have been written, and need not, in ordinary times, be re-written: but, in these times, as negativing the claims of the President's protest to Executive power—to all power—more may be said of them. I will say it, though it is particularly painful to me.

Sir, however anticipated by others, who never had any confidence, the protest was unexpected to me, and shocking and alarming to me, who had not quite lost all confidence in this administration. It is an appeal from the Senate to the people, to obtain from them a confirmation of the President's claims to powers derogatory to those of both Houses of Congress. Such an executive document is the reason or cause of these resolutions, and to deny and defeat it is their object. The reason is more than sufficient; the object, whether it be obtained or not, is more than sufficiently important; and the effect of these resolutions will be, if no other, to exclude a conclusion which may be very serious hereafter. I am for denying and refusing this claim, lest, in the progress of usurpation, it may again be advanced, and then argued in its behalf that Congress, at this time, had acquiesced in its validity. I am for losing no rights by laches, and especially none as vital, sacred, and unalienable, either by silent consent, lapse of time, or otherwise, as those involved in these resolutions. They do not intend to meddle, in any manner, with the various questions in controversy between the Senate and the President. In a contest between them, as to their executive relations, this House has no right of interposition; but we are bound, in duty to ourselves, the constitution, and the people, to protect our own powers, when trenched on either by the President or the Senate. And the President having openly advanced claims to powers which belong of right to Congress, of which this House is a constituent part, and having appealed to the people to sustain him, we ought, without delay, to defend our rights, powers, and privileges, in like manner, before the people; to deny, before them, these executive pretensions; and to appeal to their reason and judgment, to obtain a decision of the case in our favor. I say, sir, we ought to join issue, instanter, with the protest, as to the constitutional powers of Congress, but as to them alone.

But, perhaps, we may be told that, however ready we may be to join issue with the protest, neither the President nor the protest will join issue with these resolutions. We must first apply to the judges, then, to compel a "*similiter*." Does the protest not affirm, "*in totidem verbis*," the propositions which these resolutions negative?

There are two paragraphs of the protest, which, in themselves, constitute a distinct political essay, independent of, unconnected with, and not explained, restrained, or qualified by, the preceding or subsequent context. They are in themselves a whole, and contain the most of the poison for which these resolutions are intended as the antidote. I quote, sir, from the 9th page in pamphlet form:

"The custody of the public property, under such regulations as may be prescribed by legislative authority, has always been considered an appropriate function of the Executive department, in this and all other Governments. In accordance with this principle, every species of property belonging to the United States, (excepting that which is in the use of the several co-ordinate departments of the Government, as means to aid them in performing their appropriate functions,) is in charge of officers appointed by the President, whether it be lands, or buildings, or merchandise, or provisions, or clothing, or arms and munitions of war. The superintendents and keepers of the whole are appointed by the President, responsible to him, and removable at his will.

"Public money is but a species of public property. It cannot be raised by taxation or customs, nor brought into the treasury in any other way, except by law; but whenever or howsoever obtained, its custody always has been, and always must be, unless the constitution be changed, intrusted to the Executive department. No officer can be created by Congress for the purpose of taking charge of it, whose appointment would not, by the constitution, at once devolve on the President, and who would not be responsible to him for the faithful performance of his duties. The legislative power may undoubtedly bind him and the President, by any laws they may think proper to enact; they may prescribe in what place particular portions of the public money shall be kept, and for what reason it shall be removed, as they may direct that supplies for the army or navy shall be kept in particular stores; and it will be the duty of the President to see that the law is faithfully executed; yet will the custody remain in the Executive department of the Government. Were the Congress to assume, with or without a legislative act, the power of appointing officers independently of the President, to take the charge and custody of the public property contained in the military and naval arsenals, magazines, and storehouses, it is believed that such an act would be regarded by all as a palpable usurpation of the executive power, subversive of the form as well as the fundamental principles of our Government. But where is the difference, in principle, whether the public property be in the form of arms, or munitions of war, and supplies, or in gold and silver, or bank notes? None can be perceived, none is believed to exist. Congress cannot, therefore, take out of the hands of the Executive department the custody of the public property or money, without an assumption of executive power, and a subversion of the first principles of the constitution."

These paragraphs I propose critically to analyze, and patiently to extract their meaning, under every modification, according to a fair and even charitable construction.

The first is confined to a simple statement of facts. And, sir, that it "has always been, heretofore, considered" expedient for Congress to make an Executive department, by law, the agent for keeping the public money, I will not deny; but how recent events may have changed public opinion on that point even, I will not take upon myself to determine. Again: that "every species of property belonging to the United States, excepting that which is in the use of the several co-ordinate departments,"—(Quere: how long will this exception be al-

lowed?)—"is in charge of officers appointed by the President," is a fact which I am not only obliged to admit, but have much reason to deplore. And further, that "the superintendents and keepers of the whole are appointed by the President," (it should be added, "by and with the advice and consent of the Senate," but that advice and consent has not yet been had and obtained to the most important appointments,) "responsible to him, and removable by his will," are facts and truths which I have admitted, under the existing laws, in a former debate on a former occasion. I then contended, as I now contend, that "the legislative branch of the Government as clearly has the power, by the constitution, to take care of the public moneys of the United States, as it has to appropriate them by law; and that it can no more delegate the one power than the other. "But Congress having by law created the head of an Executive department, and his subordinate officers the agents for keeping the public moneys, that head and the officers of his department are responsible to the President." And, sir, lest I may not have been understood then, I will here explain my views of the extent of the responsibility of the officers in the Executive departments to the President of United States. Whenever the laws imperatively require an act to be or not to be done, or to be done in a particular manner, by these officers, the President, within the sphere of the executive branch of the Government, but there alone, is constitutionally bound to "take care" that such acts "faithfully" are or are not done by such officers, and in the manner prescribed by law. These officers are thus far responsible to the President, because he is responsible for their acts in every sense of the word. He is "answerable" and "accountable" for them as they are to him, because there is an obligation of duty imposed upon him by the constitution, which he is capable of discharging, and which if he does not faithfully discharge, he is liable to impeachment, as may be illustrated by a variety of cases.

Thus, if Congress had enacted that the public moneys should be kept in the Bank of the United States, without any discretionary power of removal whatever, given to the Secretary of the Treasury, and the Secretary of the Treasury had removed them, with the knowledge of the President, and embezzled them, the President would certainly have been impeachable for permitting a violation of the laws, when he had the power of removing the officer thus guilty of a breach of trust. I presume there would have been but one opinion, especially with the opposition, on this point. But where the laws are not imperative, merely permissive, that an executive officer may or may not do a particular act, where a discretion is vested in him, the President has not the power to substitute his own discretion in the place of that designated by law; because in this Government his will is not, like that of a king, the will of the nation. No officer is the keeper of his conscience, and much less is he the keeper of the consciences of others. He can in no case be held responsible for the exercise of another's discretion; and the responsibility to him from the officer is founded on his responsibility as described to Congress for the officer, and not, as is contended, on the power of appointment. He appointed many officers, judicial and ministerial, such as judges and marshals, for whose acts he is in no sense responsible. In this, then, in my opinion, consisted the abuse of power in the removal of the deposites: that the President exercised the legitimate power of removal for the illegitimate purpose of virtually substituting his own discretion in the place of that appointed by law.

With the first of these paragraphs of the protest, then, understood as I am willing to understand it, I perfectly agree. It goes no farther than to state the previous and present fact, that a Department of the executive branch of the Government has always been, and is now made by law, the agent for keeping the public moneys. But from this step, as to what "always has been," and is now, it will be found, in the subsequent paragraph, that he advances another step, trampling directly upon the constitution, to what "always must be" the keeper of the public moneys.

Sir, the proposition is, "that, no matter how or when the public money is obtained, its custody always has been, and always must be, unless the constitution be changed, intrusted to the Executive department." Now, it will be observed, that the first part of this proposition is but the mere repetition of the idea or fact contained in the paragraph already commented on. The precedent of what "always has been" done is made the stepping-stone to a claim of constitutional right; and what was said in the first paragraph was but the preparation of the mind for what is to follow. Sir, "he who runs may read" this proposition, to which we have seen the preceding context directly leads, and was intended to lead; and now, I ask, whether this broad claim of executive power is lessened, qualified, or mitigated, in the least, by the subsequent context?

As the preceding context is the groundwork of this pretension, so the subsequent is the superstructure. Be patient, sir, whilst I search for the truth. What is the next sentence? "No officer can be created," &c. Am I, is any one who ever dreamt of logic, to be told that this is any qualification of the first position assumed? Sir, it is the very "why and the wherefore" that the custody of the public money "always must be intrusted to the Executive department."

What next? "The legislative power may undoubtedly," &c., "they may prescribe in what place," &c. And is it here that any qualification is to be found? Well, sir, I must candidly confess that I would be thankful to his most gracious—no, sir, no! not majesty!—for that little, "to prescribe the place and the reason for removal from one place to another!" Yes, and we have even the generous admission that it would be the duty of the President to see that this prescription should be complied with! This is gracious, most gracious, and I was about to take the little that was left me, and "be off with it; but—but! ay, yes, sir, I am tantalized by a dash, and told, "yet will the custody remain in the Executive department of the Government!" It is even so, sir; you may say where the public money shall be kept, but "remember! ay, remember, that I am to be keeper!" Is not such a qualification upon qualification as this enough to fret a freeman? If this be qualification, it aggravates the monstrous offence committed; adds insult to injury, and enrages the mind of him, if he has any mind, to whose soul, if he has any soul, it is meant to be "a flattering unction." Sir, it reminds me of the old common-law notion of the relation between a bail and his principal. The old books tell us that the bail holds his principal by a string, which he may pull at any time. And, in the language of my honored preceptor of the law, let him wander where he may, "at each remove he drags a lengthening chain." So with the Executive and the Treasury: if the public money "should take the wings of the morning," or of the law, "and fly to the uttermost parts of the earth," still there would the strong arm of executive power hold it; and "if it should be cast into the depths of the sea," still there would it be overshadowed by executive guardianship, attributed with ubiquity, and regulated by no law. Sir, it reminds me of an expression often used by an old acquaintance of mine, whom I often see in this city, about his "sweetheart." The Treasury may be well called the "sweetheart" of this administration—"*ubi*," treasury, "*ibi*," Executive department! Such is the sum and substance of this qualification!

How can any one insist upon this qualification, when the next three sentences expressly affirm that, "were

the Congress to assume, with or without a legislative act, the power," &c., "such an act would be regarded by all as a palpable usurpation of executive power," &c., and that there is no difference, in principle, *quoad hoc*, between the different species of property—"arms, munitions of war, and supplies, or gold and silver, or bank notes?" I am justified, then, in saying, that the whole context, antecedent and consequent, instead of explaining away, limiting or restraining the position that "the custody the public money always must be, unless the constitution be changed, intrusted to the Executive department," does, in truth, illustrate and enforce that position.

If the expression was, "unless the law be changed," there would be some room for cavil; but the constitution, "with or without a legislative act," is made the foundation of this claim, which is pursued by the regular steps of regular reasoning. Facts are stated; a position is assumed, illustrated, and enforced; and, lastly, the problem is solved, and the process of reasoning is terminated by the "*quod erat demonstrandum*"—"Congress, cannot, therefore, take out of the hands of the Executive department the custody of the public property or money, without an assumption of executive power, and a subversion of the first principles of the constitution." Such is the protest itself, explained by itself.

But, sir, we are told that there is a codicil to this will; that there is a protest against this construction of the protest; an "explanatory message," which retracts these doctrines, and modifies this dangerous and alarming claim to power. *Quære de hoc?* Sir, if this second message had retracted the abominable heresies of the protest, and if I could be convinced that the President had revised, and corrected, and withdrawn its offensive matter, I would sit down in humble rejoicing that "the man of my choice" had not intentionally committed this political sin, bringing with it political death. "Nothing is so painful to the pure mind as to think those it highly esteems have acted unworthily; or nothing so grateful as the assurance that they merit the esteem we have been induced liberally and confidingly to bestow." And my friend from Pennsylvania, [Mr. McKENNAN,] from whom I was justly proud to receive a compliment the other day, never said aught more just or true than when he said I was the "sincere friend" of the President. I say, sir, if I knew that the introduction of these resolutions had caused him to be conscious of, and to atone for, this error, my labors of this session would be more than amply rewarded; my pride, my ambition, my heart would be more than gratified. But when I look to this explanatory message, and contemplate the spirit which pervades it, all my senses and all my soul rise up in rebellion! The expression "that certain passages contained in his message and protest may be misunderstood," is an insult to my understanding; and when he says "that such a construction" as I have put upon them, "is not warranted by any thing," I am more than half convinced that there was a settled and subtle intention, on the part of his advisers and amanuensis--I cannot yet believe on his part—to gull, deceive, and enslave the people. Sir, no one can misunderstand these "certain passages" in the protest, but those who are determined to palliate, who are blind with devotion; who, having eyes, see not, and ears, hear not, the things which concern the salvation of the country. The only effect of this explanatory message has been to render that which was clear as light, dark, lowering, and portentous as the black and muttering cloud from which we may expect a coming storm, to shake, and blast, and desolate all around us! There is no mitigation, but aggravation of the offence, to my mind, in the second message. Indeed, we are told by its friends that there is no difference between it and the first. The first, the stubborn, the meaning protest must stand, then, unexplained, unretracted, unexpiated; and I will not again ask the common sense of any man, if it is not directly as pointedly at issue with these resolutions as an affirmative and negative proposition possibly can be with each other? But I shall proceed to demonstrate, in my poor way, the truth of these resolutions, which may be voted down by many, though admitted by all.

I cannot conceive, Mr. Speaker, where the President or his council find it in the constitution that the custody of the public money must be intrusted to the Executive department, unless they obtain it by implication from the 1st section of the 2d article, which "vests the executive power in a President." I presume that this is the clause relied upon, from the expression, "the custody of the public property has always been considered an appropriate function of the Executive department, in this and all other Governments." But I cannot understand how the exercise of powers, by the Executive or Kings of other Governments, can be precedent or example for the exercise of similar or the same powers by the Executive or President of this Government, except by one mode of construction, which is subversive of our constitution. The section of the constitution referred to must be received by the writer of the protest as conferring all powers which are inherently in their nature executive, according to the standard writers on the nature of the powers of Government. And, in order to obtain for the executive branch of this Government all such powers, all that this school of construction have to do is to look to Montesquieu, or some other writer on the powers of European Governments, for a power in its nature executive; or, to use the language of the protest, for a power which "has always been considered an appropriate function of the Executive department in this and all other Governments!"

Now, sir, I doubt, but I shall not stop to discuss, whether the power of "keeping the public money" can be found in Montesquieu, (who, I am informed, is the first writer that divided the powers of Government into legislative, executive, and judicial,) or any other author, to be in its nature an executive power. But admit that it is so, and has always been so considered by all writers, still, I contend, in the first place, that this section of the constitution confers no power whatever, executive or not; and, in the second place, that the constitution does confer this power of keeping the public moneys, no matter how it had been before considered, expressly upon the Congress of the United States.

The first three sections of articles 1st, 2d, and 3d, were intended merely to divide the Government into three branches; to say—

1st. There shall be a Congress of the United States, to consist of a Senate and House of Representatives.

2d. There shall be a President of the United States of America.

3d. There shall be one Supreme Court, and such inferior courts as the Congress may from time to time ordain and establish.

And the constitution then proceeds to specify the powers given to Congress, which are denominated "legislative;" the powers given to the President, which are denominated "executive;" and the powers given to the courts, which are denominated "judicial." It does not pretend or attempt to define what either legislative, executive, or judicial powers are, according to their inherent nature; but, by its own power of forming a new Government, arbitrarily in terms, without reference to what had been considered by writers to be the nature of the respective powers, it gives certain powers to Congress, which it makes legislative; certain powers to the President, which it makes executive; and certain powers tot he courts, which it makes judicial. Our Government is entirely "*sui generis*," and its powers must be defined by the constitution alone, without foreign aid or help. If the constitution be so interpreted as to give to Congress, for example, only those powers which have "always been considered" legislative

in their nature, it would take away a power expressly granted to Congress—the power of declaring war; because it is in its nature an executive power, and is so considered by all writers on the nature of the powers of other Governments. The truth is, that, upon examination, it will be found there are several powers always considered executive in their nature, given by the constitution to Congress; but not one can be found which was ever considered legislative in its nature which the constitution has given to the President. And the reason is, because the chief point of difference between this Government and all others is, that its very object is to limit, and check, and control executive power. But again: if the 1st section of the 2d article confers any power at all, so does the 1st section of the 1st article; and if the 1st section of the 1st article confers any power at all, it expressly vests "all legislative power therein granted in Congress;" and it would be entirely irreconcilable with two subsequent sections, which require the consent of the President to the passage of any law, joint order, resolution, or vote; it would go to strip the President himself of one of his most darling attributes of executive power—the power of the veto.

Whether the custody of the public money be "an appropriate function of the Executive department" or not, then the question is, has the constitution given that power to the President? And if it is not conferred by the 1st section of the 2d article, which confers no power whatever, by what other letter or clause of the constitution, I ask, is this power given to the Executive department? The appointing power, and none other, can be relied on. The protest says that "no officer can be created by Congress, for the purpose of taking charge" of the public money, "whose appointment would not, by the constitution, at once devolve on the President, and who would not be responsible to him for the faithful performance of his duties." In other words, the President has not immediately the custody of the public money; but, if the law creates an officer to keep it, the President, by the incidental right of appointment, has the power, under the constitution, of keeping the officer who keeps the money! Such is the idea of this power, as an incident to appointment. But section 2d, article 2d, of the constitution, says: "The President shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, or other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law?" Now, sir, if this clause had rested here even, still many difficult questions would have to be all decided in favor of the President's construction, before it could be received as politically orthodox: as that, though the President alone has the power to nominate, yet is not the power to appoint a joint power between him and the Senate? It is true, by abusing the power "to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session," he may change the tenure of all offices, by annual appointments, to be held under his absolute will alone, from expiration to expiration of every session of the Senate; and it is true that the best expounders of the constitution in '89 decided he has the power of removal; yet, if the powers of appointment and removal are both conceded to be in him alone, still another important question arises: do the duties of an office, created by law, attach to the authority from which the appointment is derived, and upon which the power of removal depends; or do they attach and belong to the office itself, derived from law?

I have already conceded, to the extent which I have described, that, where the law creates an officer, clearly within the pale of the Executive department, such as one of the heads of Departments, the keeper of the public moneys, or to do and perform any duties required by law, such an officer is thus far responsible to the President, by virtue of his official relations. But does responsibility, to any extent, from an inferior to a superior officer, actually convey the office itself, and its duties? Because the Secretary of the Treasury is responsible to the President for acts which he is imperatively required by law to do, or not to do, has the President the right or the power to assume the office itself? It would, indeed, seem so, from his doctrine of responsibility of executive powers, and from his late conduct. He may fail to nominate the Secretary of the Treasury, permit the appointment to expire, refuse to nominate another, remove the Treasurer, Comptroller, and Register; or any or all of these offices may be vacated by resignation or death, as well as by removal—and what is the consequence? Why, sir, according to the doctrine that the custody of the public money is, by the constitution, "an appropriate function of the Executive department," the whole keeping of the treasury would necessarily, in the absence of all these officers, whom he may at will displace and disband, result to the President himself, in whom all executive power concentrates. And the public money having been removed from the Bank of the United States, the place where the law placed it, and there being now no other place pointed out, he may put it into his own coffers, and dispose of it, for aught there is to prevent him, to his own use! In fact, this claim of the custody results in that of the use of the public money. What, I ask, is there now to prevent the President from taking, without appropriation by law, one hundred thousand dollars, instead of twenty-five thousand dollars, to be appropriated by law, for his salary, in the teeth of the constitution? If this protest be true, the checks and balances of the Government are gone—never existed; and he who does not dare to resist this attack upon the constitution is fit to be a slave, and not worthy of free Government.

It is clear, then, I repeat, that if the constitution had gone thus far, and no farther, in the clause referred to, the President's claim to power would still be inadmissible. But, sir, I leave all this debatable ground, and take a stand which cannot be assailed by argument or by force, unless the constituiton itself be demolished, so that not one stone shall not be left upon another, from its deep foundation to the top of its superstructure. Happily for the country, this clause further provides: "But the Congress may, by law, vest the appointment of such inferior officers"—(what inferior officers?)—"all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law," besides "ambassadors or other public ministers, and consuls, and judges of the Supreme Court"—"as they think proper, in the President alone, in the courts of law, or in the heads of Departments." Congress may, then, to-morrow, *Deo volente*, by two-thirds, create a Treasurer, or keeper of the public money, whose "appointment would not devolve upon the President." A Treasurer being "such inferior officer" as whose appointment is not "in the constitution otherwise provided for," being neither ambassador or other public minister, or consul, or judge of the Supreme Court, being an officer "which shall be established by law," the Congress may, by law, passed by two-thirds of both Houses, vest his appointment, as they think proper, in the courts of law.

And if the appointment of Treasurer, and all other treasury officers, should thus become vested by law in the "courts of law," what, then, would become of the President's doctrine of responsibility? Would the Treasurer still be responsible to him by virtue of his office? or, *mutatis mutandis*, would the custody of the public money then be an appropriate function of the Judiciary? Would the power of keeping the public money then be inciden-

tal to the power of appointing the agent to keep the public money? No, sir; the judges would appoint, and become, *instanter*, as to all other powers touching the treasury, "*functus officio*," precisely as the powers of electors of President and Vice President die, as they should, in the very discharge of their functions to appoint, to vote for, or elect. The constitution positively negatives the proposition of the protest, that "no officer can be created by Congress for the purpose of taking charge of the public money, whose appointment would not, by the constitution, at once devolve on the President."

And, sir, the mode of demonstrating that this power of the custody of the public money is not given to the Executive, shows that it must be in Congress. Such a power cannot be claimed for the Judiciary, and, if not in the Executive, where else can it be but in the Congress of the United States? We have seen that Congress may, by law, vest the appointment of the agent to keep the public money in either the Executive or the Judiciary; that if that agent is not appointed by the President, even the protest does not claim the power; and whether the judges have the appointment vested in them or not, they can never pretend to the custody. But the eighth section of the first article settles all controversy on this point, by providing that "the Congress shall have power"—

"To lay and collect taxes, duties, imposts, and excises; to pay the debts," &c.

"To borrow money on the credit of the United States."

"To coin money, regulate the value thereof, and of foreign coin."

Thus Congress alone has the power to raise the revenue, whether by taxation, loan, or by the mint. And the ninth section of the first article, providing that "no money shall be drawn from the treasury but in consequence of appropriations made by law," gives to Congress the power of disbursing as well as raising the public revenue. If the custody of the public moneys is not expressly given in these clauses of the constitution, it is nowhere expressly given. The grants of the powers to raise and appropriate, necessarily, to my mind, include the power to keep the moneys of the United States. But, if not expressly given to any, yet all must admit that it belongs to some one branch of the Government; that it necessarily results from the powers which are expressly given; and that it cannot result from any express power so properly as from those of collecting and appropriating the public moneys. To which branch of the Government, then, does it belong? To Congress, which has all the powers, or to the Executive, which has none of the powers of collecting and appropriating the public revenues? Most clearly, all powers, necessarily and properly resulting from those expressly given to Congress, belong to Congress. But I advance a step farther, and contend that all resulting powers whatever belong to the Legislative, the law-giving branch of our Government. Whatever doubts may exist or be raised in other Governments, where the Executive power is always strongest, there is a clause of our constitution which leaves no room for doubt on this point in this Government, where the Executive is at best merely co-ordinate. The constitution provides that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof." If the custody of the public moneys be a resulting power, then, and resulting, too, from a power expressly given to the Executive even, it must, nevertheless, by this clause of the constitution, belong to Congress. But it is an express power, and expressly given to Congress.

We have thus far been contending, however, for the custody alone of the public moneys. The first of these resolutions declares their control as well as their custody to be in the Congress of the United States. Sir, upon examination of the protest, the conclusion is irresistible, that all, all power over the public purse is claimed by the Executive. I make not this declaration generally, but in reference to particular facts.

All control, except that of prescribing the place, is claimed over the moneys in the treasury; but let it be remembered that there are moments when the public moneys, unappropriated, and not disbursed under appropriations by law, are not in the treasury. They are "*in transitu*" to the treasury immediately after collection, and from the treasury immediately after appropriation. This is true of all the revenue. What matters it, then, where the treasury is, when the President, through "his" Secretary, may prevent every dollar from ever going there? It is known to all, I presume, that the moneys of the United States, collected at the different ports of entry, are brought into the treasury by an order of the Secretary to the collectors to pay the sums due by them at the places of deposite, to the credit of the Treasurer of the United States. When this order is obeyed, the moneys are in the treasury, and not before. Now, sir, what is there to compel the Secretary to order the moneys to be paid into the Treasury? And if it be true that the Executive has their custody, what, in this state of the public moneys, becomes of that provision of the constitution which says that "no money shall be drawn from the treasury but in consequence of appropriations made by law," and which is the only check upon the President's control of the public moneys? Do not these new protestant doctrines, which come neither from Calvin nor Luther, lead directly to the alarming consequence that the President, having the custody of the moneys, in or out of the treasury, might expend the moneys not credited to the Treasurer, or use the amounts of collectors' bonds, without appropriation by law, inasmuch as it is the money "from the treasury" only which shall not be drawn but in consequence of appropriations made by law? Ay, sir, I ask those who attended the discussion of the appropriation bills, if moneys collected have not been expended, before they were brought into the treasury, without appropriations made by law? I inform the people that they have; that suits are multiplied unreasonably on collectors' bonds; and that collectors and district attorneys of the United States pay their fees and the costs, and return the nett proceeds only into the treasury. And if a part may be withheld without sanction of law, why not the whole? And if a part, or the whole, may be withheld for one object, why not for another? Again, sir: there are the immense revenues of the Post Office Department, which are never brought into the treasury, over which there never was, and is not now, the guard or check of Treasurer, Comptroller, or Register. What, I ask, is there to prevent the Executive from pocketing them for his own use, or controlling them for his own purposes, if Congress cannot take their custody from the present agents? "Where are they now?" is a question which has been reiterated in vain this winter, until its repetition has ceased to annoy the few who only know, and has left the interested many who know not, in despair of ever knowing, until the too far distant day of account shall come! I say, then, if the custody of the moneys of the United States, unappropriated, and not disbursed, whether in or out of the treasury, be not in Congress, their control must be in the President. Are any here so basely servile as even to connive at this doctrine? None, I hope. I call upon all, then, to vote for the first of these resolutions. It says, that "the custody and control of the moneys of the United States are placed under the order and direction of Congress," to meet the cringing argument which is used, that "Congress has no hand to hold the public purse." It is true, sir, that Congress, as a body,

cannot keep the public moneys; but the custody of Congress is the custody of the law, and the hand of the law is the agent created by Congress.

The third resolution declares that Congress can take out of the hands of the Executive department the custody and control, not only of the public moneys, but of the public property of the United States. Sir, I shall not stop here to refine upon the nice distinctions between the words "money" and "property;" and, though there is a material and important difference between "money in the treasury," and lands, tenements, arms, and other "property" purchased with money once appropriated by law, yet I will admit that, in a broad sense, "public money is but a species of public property." If so, my argument is at once confirmed by the constitution, which expressly provides (section 3d, art. 4th) that "the Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States;" besides the power given in the 16th clause of the 8th section of the 1st article.

I hope, sir, that I have now shown what are the doctrines, and some of the errors of the protest; that I have demonstrated the truths of these resolutions, and maintained not only their propriety and consistency, but laid bare their absolute necessity to the very preservation of our form of government. I therefore call upon this House, by the danger of giving silent consent to enormous and alarming claims of power by the Executive, by the sacred trusts which are reposed in it by the people, by its own dignity, self-respect, just powers, and independence, and by the cause of civil liberty, to sustain these resolutions, which contend for the laws and the constitution.

But, sir, the protest is not a mere declaration of powers. If it was but theory, we might, perhaps, amuse ourselves with its abstract philosophy, fold our arms in security, and smile at the harmless arrogance of the Executive self-sufficiency. It is practical, sir, with a vengeance; and a false security on our part may be fatal. It does not merely declare what the Executive might do if it would, but it is a justification of what it has done of its own will and accord. There is, therefore, something practical involved in the instructions proposed, which I must not leave untouched.

By an abuse of power, the President has taken the treasury itself out of the custody of law. By the worst policy that ever misguided an administration, this has destroyed confidence and credit in trade; deranged the money market; convulsed, and shocked, and stunned business of every description among men; injuriously affected every species of legislation, and produced the most unparalleled commercial suffering and distress that ever afflicted a people in a time of profound peace and of exuberant national prosperity. And, by claims of power still more extravagant, dangerous and alarming, this state of things is sought to be perpetuated, by strengthening still more the cords, and extending still wider the boundaries of executive power, by paralyzing the legislative arm, and corrupting the representative will!

The Executive has not only claimed, but has actually obtained the custody and control of the public moneys. The custody and control carry with them the use; and the moneys have been used, expended, and, I fear, squandered, without authority of law. It is at this time collected, brought into the treasury or not, transferred, deposited, as to time, place, and circumstances; loaned with or without security; and may be disbursed "*ad libitum*," according to the simple dictation of the President and "his Secretary." This is not matter for argument; it is "stubborn fact."

I shall make no other comment than earnestly to say, that something effectual and permanent must be done. The disease is too violent and radical for a nostrum or nothing. I am fully sensible of my own inability to command influence, and I am conscious that I can scarcely be heard in any sense in this hall: but I would appeal to gentlemen, on all sides, of all parties, not to leave here without doing something at least to appease popular discontent. I would ask of all, if any can be so infatuated as to imagine, for a moment, that the people will tolerate the present state of things, and permit it to exist?

To those who, with me, deprecate and deplore the present condition of the country, I would say, it is too true this is no longer a question of restoration or not of the deposites, of "bank or no bank," of dollars and cents, but a question of constitutional freedom. How, though, are we to redeem the constitution, vindicate our own powers, and restore the rights of the people, without acts as well as declarations? It is useless to declare the powers of Congress, without attempting at least to exert them. The cry of "Usurpation! Usurpation!" is a dull sound, without efforts to second its notes. How correct the abuse of removing the deposites, but by restoring them? How restore a sound, uniform, and safe currency, but by adopting some permanent plan of relief? How rebuke the abuses and usurpations of power, but by couteracting both? Sir, I hope gentlemen in opposition are in earnest, and are actuated by patriotism more than by party spirit; that they do not mean only to cast odium on the acts of the administration, without intending to apply a remedy themselves. I hope they do not desire the suffering of their countrymen to continue, in order that they may be more than imbittered against those in power; that the cry they have raised is not so much to destroy the popularity of "the powers that be," but that it has a meaning in it worthy of the patriot's warning; and that they will continue at their posts until this policy of doing nothing, of leaving all power where it now is, is defeated and overthrown.

Sir, I respectfully ask gentlemen who support the administration in all these measures, if it can possibly be their deliberate policy to adjourn without doing something for relief--not pecuniary relief, that is now but as the dust in the balance--I mean relief of the laws and constitution? I respectfully inquire of the honorable chairman of the Committee of Ways and Means, if any other can be his design, or the design of the party with whom he acts, by the proposition of the measure he has reported? Can he or any man expect us to adopt that measure, when it would but confirm the present state of things; but employ the worst of means to effect the very evils complained of; but add the sanction of law to the very violations of law; and servilely grant, yield, and consent to the usurpations of power which we are so loudly called on sternly to deny, refuse, resist, and denounce? Does he not, did he not foreknow that Congress will reject this proposition to strip it of all its powers, and transfer them to the Executive? And if Congress does reject it, as it is bound by law and duty to do, do gentlemen flatter themselves that they can return to their constituents with the insulting excuse, that the administration has done its part for the people? I imploringly ask gentlemen, if this is to be their "*ultimatum?*" If so, I venture to predict that it will be the "*ultimatum*" of their fate! Sir, this may be the croaking of prophecy, and they may feel secure as a tower of strength in their present possession of power. But if they continue to mock the complaints of the people; if they continue in that desperate course which blindly plunges from bad to worse; if they do not quickly retrace their steps of folly, repent of past errors, (which they may now do without making confession;) if they persist in this sacrilegious policy which pollutes the sacred vessels of the sanctuary; they will yet have to tremble, like Belshazzar, at the hand-writing on the wall!

Sir, in the language of Fisher Ames, "if my powers

were commensurate with my zeal, I would raise my voice to such a pitch of remonstrance" against this cruel injustice to a generous people, this mischievous policy of those in whom that people have confided, this flagrant outrage upon the laws and constitution, "that it should reach every log house beyond the mountains." I would say to the inhabitants of this land, to its utmost borders, rise in your majesty and sovereignty, and hurl from his place of power every public man within the reach of a ballot-box, who has sought to perpetrate these atrocious evils upon the body politic, or who has been supine and inactive whilst others have been guilty of their perpetration! But, sir, as I cannot be heeded by the nation beyond the district of my own constituents, I would speak with a "still small voice" to those who are near me. In my present relation to the President, I cannot condescend, as an independent representative of a people yet free, to offer an apology for the course I have been driven to pursue by the late measures of the Executive. I claim rather an atonement from the man whom I supported for the presidency for such acts of misrule. But if I were permitted to expostulate with him, as still a sincere personal friend, I would warn him to "shake off the serpent from his hand, ere poison and death ensue from the bite of the reptile!"

I will say to my personal friends in the administration ranks: "I am no deserter, and have a right to speak to a brother soldier. It is true I have left your camp, not because I disliked the corps to which I belonged, but because there were vermin there; and I enlisted under the banners of the 'Old Chief' to fight for my country, and not against her most sacred institutions and dearest rights. I call upon you who are faithful to him to save the time-honored warrior from the 'deep damnation' of the bitter curses of an injured and insulted people, groaning under the pillaging policy of 'orderly sergeants,' reckless alike of the country's welfare and of the President's popularity, enriched with the 'spoils of victory,' and flushed to madness with the intoxication of repeated triumphs!"

Sir, I will say to members, of whatever party, "Show to the world that if there are too many who love to be tempted to forget their trusts, by a well-managed venality, there are a few who find a greater satisfaction in being thought beyond its influence."

I will say to the people: "Ho! every patriot to the rescue!" And, "if the worst comes to the worst," I would put up to the God of nations the prayer of Warsaw's last champion—

"O, Heaven! my bleeding country save!"

When Mr. WISE had concluded,

Mr. PEYTON replied, and closed by calling for the reading of the amendment he had proposed to the resolutions at the time they were offered.

Mr. MILLER moved that the memorial, resolutions, and amendment be laid upon the table.

Mr. WILDE moved a call of the House; which being agreed to,

The House was called, and one hundred and eighty-five members answered to their names.

Mr. WHITTLESEY then moved that further proceedings in the call be suspended.

On this motion Mr. MANN, of New York, demanded the yeas and nays; which being ordered, Mr. WHITTLESEY withdrew his motion.

The doors were then closed, the names of absentees called over, and excuses received in their behalf.

Repeated attempts were made by Mr. WILDE and Mr. J. K. MANN to have the call suspended, which at length succeeded: Yays 117; nays 63.

Mr. BEARDSLEY moved to adjourn. The yeas and nays being demanded, and taken, resulted as follows: Yeas 79, nays 115.

The question was now put on the motion of Mr. MILLER, to lay the memorial, resolutions, and amendment, on the table.

The resolutions and amendment were then read at the Clerk's table.

Mr. FILLMORE inquired whether the question was divisible?

The CHAIR decided that it was not.

The yeas and nays were then called, and stood as follows:

YEAS—Messrs. John Adams, William Allen, Anthony, Beale, Bean, Beardsley, Beaumont, Blair, Bockee, Bodle, Bouldin, Brown, Bunch, Burns, Bynum, Cambreleng, Carr, Casey, Chaney, Chinn, Samuel Clark, Clay, Coffee, Cramer, Day, Dickerson, Dickinson, Dunlap, Forester, William K. Fuller, Fulton Galbraith, Gillet, Joseph Hall, Halsey, Hamer, Hannegan, Joseph M. Harper, Harrison, Hathaway, Hawkins, Henderson, Howell, Hubbard, Abel Huntington, Inge, Jarvis, Cave Johnson, Benjamin Jones, Kavanagh, Kinnard, Lane, Lansing, Laporte, Luke Lea, Thomas Lee, Leavitt, Loyall, Lyon, Lytle, Abijah Mann, Joel K. Mann, Mardis, John Y. Mason, Moses Mason, McIntire, McKay, McKim, McKinley, McLene, McVean, Miller, Henry Mitchell, Robert Mitchell, Muhlenberg, Murphy, Osgood, Page, Parks, Parker, Patterson, D. J. Pearce, Franklin Pierce, Pierson, Polk, Pope, Schenck, Schley, Smith, Speight, Standefer, Stoddert, Sutherland, William Taylor, Francis Thomas, Thomson, Turrill, Vanderpoel, Van Houten, Wagener, Ward, Wardwell, Webster, Whallon, C. P. White—105.

NAYS—Messrs. John Q. Adams, Heman Allen, John J. Allen, Archer, Ashley, Banks, Barber, Barnitz, Barringer, Baylies, Beaty, James M. Bell, Binney, Briggs, Bull, Burges, Cage, Chambers, Chilton, Choate, William Clark, Clayton, Clowney, Corwin, Coulter, Darlington, Warren R. Davis, Davenport, Deberry, Deming, Denny, Dickson, Duncan, Evans, E. Everett, H. Everett, Ewing, Felder, Fillmore, Foster, Philo C. Fuller, Gamble, Garland, Gholson, Gilmer, Grayson, Grennell, Griffin, Hiland Hall, Hard, Hardin, James Harper, Hazeltine, Hiester, Jabez W. Huntington, Jackson, William Cost Johnson, King, Lay, Lewis, Lincoln, Martindale, Marshall, Mc Carty, McComas, McKennan, Mercer, Milligan, Moore, Peyton, Pinckney, Potts, Ramsay, Reed, Rencher, Selden, Augustine H. Shepperd, William Slade, Sloane, Spangler, Steele, William P. Taylor, Philemon Thomas, Tompkins, Turner, Tweedy, Vance, Vinton, Watmough, E. D. White, F. Whittlesey, Elisha Whittlesey, Wilde, Williams, Wilson, Wise, Young—97.

On motion of Mr. C. P. WHITE,

The House then adjourned.

TUESDAY, JUNE 10.

ADJOURNMENT.

The rule being suspended for the purpose, the House proceeded to the consideration of the amendment of the Senate to the resolution fixing a day for the adjournment of Congress, making said resolution read, "close the present session of Congress, by an adjournment of their respective Houses, on Monday, the 30th June, instant," instead of "June next," as in the form in which the resolve went from this House.

The said amendment was agreed to.

ROMAN CATHOLIC CHURCH, ST. LOUIS.

Mr. POLK, from the Committee of Ways and Means, to which was referred the bill passed by the Senate, for the relief of this church, at St. Louis, Missouri, said he was instructed by them to report that the bill be rejected; and he moved that the bill and report should be printed.

Mr. ASHLEY desired some information as to the motive of the committee in recommending the rejection of the bill.

Mr. POLK repeated that the committee had reported that the bill should be rejected, and said that, as it would be printed, the honorable member might hereafter satisfy the House, if he could, as to the propriety of granting the relief sought for.

The bill was then ordered to be printed, and committed to a committee of the whole House.

Mr. MERCER obtained leave to submit the following resolution, which he proposed as an amendment to the standing rules of the House, and which lies on the table one day (by rule) for consideration:

Resolved, That the following rule be added to the standing rules of this House: When any motion is depending before the House, whether of the nature of an original resolution or bill, or be an amendment thereof, it shall be in order for any member, entitled to the floor, to move "that the debate on such motion shall cease;" and, if this motion be seconded by a majority of the House, it shall be put without further debate; and, if adopted by the House, the motion depending shall be put without further delay; provided, that a call of the House may be received prior to the final vote thereon.

On motion of Mr. R. M. JOHNSON, the bill further to extend the time for the purpose of enabling revolutionary soldiers to locate military land warrants, was taken up.

Mr. VINTON remarked that, as it was on his motion the bill had been laid on the table, he desired to explain, that he had made that motion for the purpose of moving an amendment, giving to the persons entitled, the same privilege (taking out scrip) that had been extended to other revolutionary soldiers; but, as the honorable member from Kentucky thought, if he now proposed his amendment, the passage of the bill might be embarrassed, he would abstain from offering it.

The bill was then, on the suggestion of Mr. WHITTLESEY, verbally amended, and ordered to be engrossed, for a third reading to-morrow.

Mr. VINTON obtained leave to offer an amendment, to be printed; intimating that it was his intention to propose to add it to the bill prohibiting the issue of notes under $10, by the corporations of Washington, Georgetown, and Alexandria, when that bill should be taken up for consideration.

The proposed amendment was ordered to be printed.

Mr. WILSON asked the consent of the House to suspend the rules, for the purpose of presenting, without debate, memorials and petitions, which lay over.

The House refused to suspend the rules, and proceeded to the special order of the day, being the consideration of

THE KENTUCKY CONTESTED ELECTION.

The question was upon the amendment moved by Mr. BANKS, to the resolution reported by the Committee of Elections, as proposed to be amended by Mr. POPE, as follows:

Resolved, That the votes of A. Kavanagh, George Elliot, jr., Moses Bryant, John Shipman, Shelton Harris, John Floyd, Jeremiah Anderson, Garrit Norris, John D. Stone, M. B. Morely, William Woolsey, Cornelius Neevis, James Moorman, Robert Figg, John Cornett, and George Callett, be stricken from Mr. Letcher's poll, it having been proved that they were minors at the time of the election.

Resolved, That the votes of William Gwinn, John McCoy, and William Wright, who voted in Garrard and Lincoln counties; and of Greenbury Peyton, and William Welsh, who voted in Jessamine county, be stricken from Mr. Letcher's poll, it having been proved that they were not citizens of Kentucky at the time of the election.

Resolved, That the vote of Rowland Shields ought to be counted for Mr. Moore on the Lincoln poll-book, it having been wrongfully stricken off by the judges of the election.

Resolved, That the vote of John Brady be taken from Mr. Letcher's poll, and counted on that of Mr. Moore, on the ground that he had in the first instance, *bona fide*, and without mistake, voted for Mr. Moore.

Mr. POPE proposed to modify his amendment by adding several names to those whom he proposed, by the amendment, to strike from the poll of Mr. Letcher.

Mr. BANKS, who was entitled to the floor when this subject was last under consideration, replied, in detail, to the argument heretofore made by Mr. POPE in support of his amendment.

Mr. P. DICKERSON said: Mr. Speaker, I must ask the indulgence of the House for but a few minutes, whilst I express my views of the subject now under discussion. It is now proposed further to amend the original resolution, by striking out of the list of voters the names of some persons who are alleged to have been minors at the time of the election. I shall vote against this amendment for the same reasons that I have heretofore voted against all the amendments which have been proposed.

The object of the present inquiry and discussion is to ascertain the person entitled to represent the fifth congressional district of Kentucky upon this floor. The result of that inquiry should be a resolution declaring the person entitled to the seat. The committee have reported such resolution, declaring that Thomas P. Moore is entitled to the seat. And I contend that, according to the correct course of proceeding, and to all precedents, no proper amendment can be proposed to that resolution, except to strike out the name of Mr. Moore, and insert that of Mr. Letcher. I therefore have voted against all the amendments which have hitherto been proposed, and shall continue to vote against all of a similar character that may be hereafter proposed.

Before I can vote for an amendment to any resolution, I must be first satisfied, not only that the principle contained in the proposed amendment is correct, but that it is proper to add it, by way of amendment, to the original resolution. The term amendment implies that the proposition proposed to be amended is imperfect, either in form or substance. It cannot be pretended that the present resolution is defective in form; and if it be wrong in substance, it is in respect to the person named therein, and not otherwise. I therefore insist that no sufficient reason can be shown why the several amendments which have already been adopted, or that which is now proposed, should be attached to the original resolution reported by the committee in this case.

Permit me to call the attention of the House to the form which their resolution, with the amendments, will present, when completed according to the present plan. The original resolution declares that one of the candidates is entitled to his seat. This settles the question fully and definitively, and concludes the whole subject. We shall then have, by way of amendment, a number of propositions containing the very matter which should be the basis of the arguments in support of the original resolutions, but which, to my view, appear entirely misplaced when used as amendments to that resolution.

As to precedent, I have examined the journals of the proceedings of this House, from the formation of our Government to this time; and I believe that no precedent can be found to justify the present course of proceeding. In similar cases, the resolutions are almost all reported, and adopted in the simplest form, declaring who is entitled to the seat.

I find, however, two cases in which efforts were made to attach to the resolution some qualification of a similar character to those now proposed. In the case of the con-

tested election in 1807, between William McCreery and Joshua Barney, of Maryland, the Committee of Elections made a report in these words:

"*Resolved*, That William McCreery, having the greatest number of votes, and being duly qualified, agreeably to the constitution of the United States, is entitled to his seat in this House."

The Committee of the Whole House, after argument, struck out the words "having the greatest number of votes, and being duly qualified, agreeably to the constitution of the United States, by a vote of 70 to 37. A motion was then made to insert the words, "by having the qualifications prescribed by the laws of Maryland," after the words William McCreery, but it was negatived by a vote of 92 to 8; and the resolution, in its simple form, was adopted by a vote of 89 to 18. In this case, the matter which was proposed by way of amendment must have been true, and yet the House decided, and I think correctly, that it should not form a part of the resolution, nor be inserted by way of amendment to the same.

A similar course was pursued in the case of Philip B. Key, of Maryland, whose election was contested by some of his electors, in 1808. In that case the resolution reported was, "That Philip B. Key, having the greatest number of votes, and being qualified agreeably to the constitution of the United States, is entitled to his seat in this House." The House struck out the words "having the greatest number of votes," &c. by a vote of 79 to 28, leaving the resolution in its most simple form, which was adopted by a vote of only 57 to 52. These two cases show the practice in this House, and, I think, establish the true rule: that the resolution in such cases should express only the result of the investigation, and not the grounds or arguments which have led to that result. These are my views upon the subject, and such as have governed my votes upon this occasion. But as it appears that a majority of the House are disposed to adopt a different course, and in fact to argue this question by taking the ayes and noes, I certainly do not feel disposed to interfere with their views. But I would respectfully submit that a due respect to former precedents, and to the form of your resolution, would require that, after the House shall have finished the discussion by taking the ayes and noes upon the several proposed amendments, they will restore the resolution reported by the committee to its original simplicity of form, either by the operation of the previous question, or by such other course as may better suit the feelings of the House.

Mr. HARDIN opposed the amendment by a few remarks.

Mr. POPE made a further explanation of his views in offering the amendment. The House having, by its former votes, gone behind the doings of the committee in favor of one party, should give similar benefit to the other. For himself, he was originally opposed to the course. But it having been adopted, the principle ought to be impartially applied. Mr. P. went into an explanation relative to the names contained in his proposition, by referring, in detail, to the printed testimony. Mr. P. concluded by modifying his amendment, by striking off three names contained in his amendment as originally offered.

Mr. MARSHALL, after some remarks, moved to amend the amendment by striking off certain names from the poll of Mr. Moore.

Mr. MOORE, of Virginia, suggested that the question had better be taken first on the proposition of the gentleman from Kentucky, [Mr. POPE.]

After some conversation between Messrs. HARDIN, POPE, MARSHALL, and C. ALLAN, as to the mode of proceeding,

Mr. MARSHALL withdrew his amendment.

Mr. JONES, of Georgia, made some statements and explanations relative to the names of voters in the amendment.

Mr. MOORE mentioned certain votes upon which he wished the question to be taken separately.

Mr. SUTHERLAND, after adverting to the late period of the session, the press of important business, and the impossibility of arriving at any result this session, if we went on in this way, strongly urged the House to meet the question at once, and decide, from the facts before them, which of the claimants is entitled to the seat.

Mr. BURGES suggested that, if the previous question was resorted to, we should have to decide, without further investigation, whether Mr. Letcher was elected by a majority of twelve votes or not. The gentleman from Pennsylvania did not probably intend to invite the House to vote Mr. Letcher in, and it would be still more extraordinary if he wished them to vote for Mr. Moore.

Mr. FOSTER wished, he said, to decide the question to-day, and he would sit here with a majority of the House till midnight for that purpose. Let us, said he, appoint two tellers, and take the question on each individual vote. In this way we could ascertain who was elected. We could not vote upon all the names in mass. That would be to guess at a result.

Mr. SUTHERLAND made a few remarks in support of his previous suggestions.

Mr. MARSHALL submitted a substitute for the proposition of Mr. POPE, including in the substitute the several names proposed to be excepted by himself and by his colleague, [Mr. POPE.]

Mr. FILLMORE suggested that the readiest mode of arriving at a correct result, would be to take the question upon each name separately.

Mr. LANE said it was perfectly apparent that we might go on till the end of the session with this discussion, without obtaining a decision of the question. As few gentlemen appeared now to be prepared to act on this subject, he moved the postponement of its further consideration till to-morrow week.

Mr. LYTLE said the discussion had gone to an extent which must satisfy any one that the House, having left the principles of the committee, will take at least three months before they arrive at a conclusion. Believing that the House was as well prepared now as it would ever be to decide the question, he called for the previous question.

Mr. WILDE asked what would be the effect of the previous question?

The CHAIR stated that the effect would be to obtain the question on the original resolution reported from the committee, as amended by the House.

Mr. HUBBARD made some remarks on the point of order.

Mr. MANN, of New York, asked whether the Chair had decided that the previous question would not cut off the amendments which had been adopted?

The CHAIR had so decided.

Mr. MANN hoped, then, that the motion for the previous question would be withdrawn.

Mr. LYTLE said he would withdraw it for the present.

Mr. LANE withdrew the motion to postpone.

The question then being on the substitute offered by Mr. MARSHALL—

Mr. MARSHALL said he would withdraw it, and offer it in paragraphs, as amendments to the proposition of his colleague, [Mr. POPE.]

The question being then on Mr. POPE's amendment, it was taken separately on each name.

The question of striking off the name of A. Kavanagh from the poll of Mr. Letcher was taken by yeas and nays, and determined in the affirmative: Yeas 151, nays 50.

The names of George Elliott, Jun., Moses Bryant, John Shipman, and L. Harris, were also severally stricken off.

The question being taken by yeas and nays, on striking off the name of John Floyd, it was determined in the negative: Yeas 48, nays 143.

The question was then taken upon striking off the name of Jeremiah Anderson.

After some observations by Messrs. Hardin, Fillmore, Lane, S. Jones, Mercer, J. Harper, Vinton, McKinley, and Gilmer,

Mr. LYTLE moved the previous question.

Mr. HUBBARD inquired what was the main question, and whether it was divisible?

The CHAIR stated the main question to be upon the adoption of the resolution reported by the Committee of Elections, as amended by the House, and explained how far it was divisible.

The previous question was not seconded: Ayes 100, noes 102.

Mr. BURGES moved the House adjourn; but, on the ayes and noes being ordered, he withdrew the motion.

Mr. ANTHONY renewed the motion to adjourn; upon which the ayes and noes were ordered.

The motion was lost: Ayes 66, noes 145.

Mr. S. JONES demanded the yeas and nays on striking out the name of Anderson; which were ordered.

The motion to strike out was negatived: Ayes 92, noes 103.

The previous question was again demanded by Mr. LYTLE.

Mr. McKENNAN inquired whether, if the previous question was sustained, it would be in order to substitute the name of R. P. Letcher for that of T. P. Moore in the resolution.

The CHAIR explained, that, if the House negatived the resolution declaring Mr. Moore entitled to the seat, it would be competent to offer another, declaring Mr. Letcher entitled to it.

The call for the previous question was sustained: Ayes 105, noes 96.

Mr. MARSHALL moved a call of the House.

Mr. HARDIN demanded the ayes and noes on that question.

The call was ordered: Ayes 119, noes 85.

216 members answered to their names.

Mr. WARD then moved the suspension of the call.

Mr. HARDIN demanded the yeas and nays.

Mr. WARD then withdrew his motion.

The call then proceeded.

After various members had been excused

Mr. MANN moved the call be suspended; on which,

Mr. HARDIN called for the yeas and nays; which were ordered.

The suspension of the call was carried: Ayes 129, noes 85.

The question, "Shall the main question be now put?" was propounded.

Mr. HARDIN moved the House adjourn, and demanded the yeas and nays; which were ordered.

The motion to adjourn was negatived: Ayes 59, noes 152.

Mr. MERCER moved to reconsider the vote he had given to strike out sundry votes from the poll of Mr. Letcher.

The CHAIR decided the motion was not in order, the House having sustained the previous question, which was of a higher order of privileged questions.

Mr. MERCER appealed from the decision of the Chair, and supported his appeal at length.

Mr. W. R. DAVIS inquired whether the vote, the reconsideration of which was moved, had been given before or after the previous question was moved.

The CHAIR said the vote was given before the previous question was moved.

Mr. E. EVERETT asked for the reading of the forty-first rule; which was done accordingly.

Mr. CLAY supported the decision of the Chair, and called for the reading of the thirty-fifth rule of the House; which was read.

Mr. LYTLE made some remarks, which were replied to by Mr. MERCER.

The question was further debated by Messrs. Wilde, Thomas, Vinton, Speight, Foster, Lytle, McKennan; when

Mr. MERCER withdrew the motion to reconsider, and his appeal.

Mr. McKENNAN asked if it was in order to call the attention of the House to the fact that, according to the amendments adopted by the House, Robert P. Letcher had a majority of the votes, and was therefore elected.

The CHAIR pronounced that it was not in order.

The reading of the resolutions, as amended, was called for; and they were read.

Mr. MARSHALL asked that the statements of the deductions from votes, &c., should be read from the report of the Committee of Elections. [Loud cries of order.]

The CHAIR decided that it was not in order, as it was in the nature of argument.

Mr. MARSHALL appealed from the decision of the Chair.

The question being taken on the appeal, the decision of the Chair was sustained.

The question then being, "Shall the main question be now put?" it was taken by yeas and nays, and determined in the negative: Ayes 108, nays 112.

Mr. HARDIN moved the House adjourn; which was carried.

The House then adjourned.

Wednesday, June 11.

Mr. WATMOUGH, from the select committee on the subject, reported a resolution that Friday and Saturday week should be set apart for the consideration of the bill for equalizing the pay of the navy, &c. The adoption of the resolve was opposed by Mr. Vance, Mr. Gillet, and Mr. Mardis, who objected to giving precedence to this business; and, notwithstanding the zealous endeavor of Mr. Watmough to prevent it, the resolution was ordered to lie on the table.

OHIO BOUNDARY.

The bill from the Senate, to settle the northern boundary line of Ohio, coming up for a third reading,

Mr. ALLEN, of Ohio, moved that its consideration should be postponed until Thursday week, and for which it should be made the special order.

Mr. LYON moved to refer it to the Committee on the Judiciary.

Mr. ALLEN, then rose, and, in support of his own motion, in opposition to the motion, and in answer to the remarks of Mr. Lyon, said:

Mr. Speaker: I shall oppose the reference of this bill to the Judiciary, or any other committee; not that I anticipate a report unfavorable to the bill, but because such a reference, in whatever report it may finally result, whether in favor of or against the bill, must, in either event, prove equivalent to its absolute rejection.

The period for the adjournment is already fixed, and near at hand. An immense mass of business, which has been accumulating for six months past, is yet unfinished, and must necessarily be crowded into the twenty remaining days of the session.

It is evident, therefore, that the bill, should it be referred, cannot return in time to receive the action of this body. Of this the honorable gentleman from Michigan must be aware, and if so, it will be difficult for him to assign any other motive for this motion, than a desire to

achieve the defeat of the bill—not, indeed, by invoking the attention of the House to the facts upon which the bill is predicated, or its judgment upon the question arising from those facts, but by anticipating both, and giving to the bill a direction so circuitous and dilatory as to render it impossible for the House to regain its possession, much less to discuss its merits, during the present session.

Sir, I regret that, whilst the question now before the House thus evidently involves the fate of the bill, as much so as if it were the question upon its final passage or rejection, yet that I am precluded, by the mere form of the question, from entering upon the discussion of its merits.

I regret, too, that the House, should the gentleman's motion prevail, will have inflicted upon Ohio the deepest injustice, without having had the opportunity of knowing the extent of the injury, or having first allowed the State even the common privilege of discussion.

The gentleman from Michigan has based his chief argument, for the reference of the bill to the Judiciary Committee, upon the assumption that such a reference is the regular, and only regular, parliamentary course. The assumption is untrue, and the argument dependent upon it, therefore, necessarily unsound.

When a bill, originating in the Senate, passes that body and comes to this, the only arbitrary rule for its disposition is, that it shall receive the action of this House, not in any one particular, but in some one of many forms. It may be retained in the House, and there disposed of, in any one of several modes; or it may be referred or committed; and if so, to the Committee of the Whole House, to the appropriate standing committee, or to a select committee, raised for the especial purpose.

Whether a bill shall be thus retained in and abide the pleasure of the House, or committed to the one or the other of these three several classes of committees, must depend upon the peculiar circumstances attending each particular bill. It must depend upon the nature of the subject which the bill embraces; the character and importance of the questions and principles it presents; the magnitude of the interests involved in its fate; and, in some degree, upon the period of the session at which the bill comes to the House. And this is equally true of every class of bills, except such as impose a tax or charge upon the people, or provide for the appropriation of money, and which are required by the rules to be debated first in the Committee of the Whole House.

In the discussion of the gentleman's motion to commit this bill to the Judiciary Committee, the first question is: Do there exist any facts or circumstances, connected with the subject-matter of the bill, or will there arise in the discussion, any question involving principles which render it necessary, before such discussion, to commit the bill to any committee at all; and, if so, to the Judiciary Committee in particular?

The only remaining question is: Will the House, supposing no such necessity to exist, nevertheless refer the bill, when such reference must result in its rejection, and such rejection in doing injustice to a sovereign State?

In examining the first of these questions, I shall lay it down as a general proposition, that if the question of boundary which this bill involves is already presented to the House, as fully, as fairly, and as little obscured or encumbered by extrinsic circumstances or immaterial facts as it can ever be presented by a committee were the bill referred; if the House is now in possession of every thing necessary to fix its attention upon the only question, which the bill submits, and to aid its judgment in the solution of that question; if the committee could do nothing more than to report for or against the bill, without finding an additional fact or argument for the one or the other, of which the House is not already in the possession; if, in a word, the report of a committee could leave the subject only where the committee found it, then, sir, such a reference must be not only unnecessary, but necessarily absurd.

That such, and such alone, would be the result of a reference of a bill to a committee, and such their report upon it, I shall now proceed to show, by pursuing, briefly, the process through which this subject has passed from its first inception in this House to its maturity in the form of the present bill.

The application of the Territory of Michigan for admission as a State into the Union, was, at the commencement of the present session, referred, in the distributive order of business, to the Committee on Territories of this House. As it was evident that a bill providing for the admission, must necessarily define the boundaries of the contemplated State, and consequently present to this House the very question which it is the purpose of the present bill to settle, the delegation from Ohio requested my honorable friend and colleague [Mr. VINTON] and myself to appear before the committee to submit the views and guard the interests of our State; and, in so doing, to prevail, if possible, with the committee to prescribe the southern boundary of the intended State, in accordance with the rights of Ohio.

In obedience to this request, my colleague and myself did appear; but not alone; the gentleman from Michigan also appeared. And there, sir, with the indulgent permission of the committee, the question of boundary was fully and amply discussed. Every public act and official document, either directly or indirectly affecting the question, from the original acts of cession by Virginia, and the ordinance of Congress of 1787, down to the memorials of the Legislature of Ohio and the Legislative Council of Michigan of the present year to Congress, were exhibited to the committee, illustrated by, and imbodied in, the arguments of either party. The various maps of the country, necessary to an understanding of the real question in controversy, were also produced, and explained in the discussion. The arguments on both sides were, in their full extent, ultimately reduced to writing; and they, together with all the material public and official acts and documents to which they referred, were subsequently printed and imbodied in a volume of a hundred pages, submitted to this House in the report of the Territorial Committee, and laid upon the desk of each member.

The bill reported by the committee, providing not for the admission of the Territory into the Union, but for taking the census, as preparatory to such admission, did not present the question of boundary between the State and the Territory.

In the meantime, however, the bill which is the subject of the present motion originated in the Senate, and was there referred to the Judiciary Committee of that body. And now, sir, I ask the attention of the House to the part which the honorable gentleman from Michigan acted upon that occasion. He did not then offer any obstruction to the progress of the bill; nor did he then dispute the power of Congress over the subject; declare the question exclusively judicial, and that it therefore fell within the orbit of the federal judiciary. No, sir; but, in the rapturous anticipation of a result favorable to the pretensions of his Territory, he addressed a letter to the chairman of the Senatorial committee, congratulating himself upon the course the bill had taken, and upon the disinterested justice of the committee who had it in charge.

In the concluding paragraph of that letter the gentleman says: "The settling of the construction which Congress may now give to that part of the fifth article of the ordinance, which relates to the formation of one or two States in that part of the Northwestern Territory lying north of an east and west line drawn through the southern extreme of Lake Michigan, is a subject of such vast and vital importance to the prosperity and interests of both

the eastern and western divisions of Michigan, that it was with much gratification I learned that a bill, which would necessarily involve a decision on this question, had been referred to a committee, neither of whom were from States directly interested in the result, and from all of whom a just regard to the rights and interests of a feeble frontier Territory may be confidently anticipated."

This letter was in answer to one from the chairman of the committee to the gentleman from Michigan, requesting him to submit to the committee his views on the subject of the boundary prescribed in the bill. The gentleman did so submit his views; and, in addition to this source of light, the committee had before them the ample report of the Territorial Committee of this House on the subject, accompanied as it was by the volume of printed arguments, acts, and documents, legislative and executive, to which I have before alluded, as also the maps of the country.

Thus, sir, in full view of the entire subject, with the strongest light reflected from all sides upon the point in question, this committee, composed as it is of some of the ablest lawyers and most experienced statesmen of the Union, made to the Senate a report which, being brief, I will ask the privilege to read:

"The Committee on the Judiciary, to whom was referred the bill to settle and establish the northern boundary line of the State of Ohio, unanimously report:

"That they have carefully examined all the arguments of the Delegate from the Territory of Michigan, and of the Legislative Council of said Territory, which have been laid before them, as well as the arguments submitted in behalf of the State of Ohio. The committee annex those arguments to their report, marked A, B, C, D. The committee have no doubt of the authority of Congress to settle and establish the northern boundary of the State of Ohio, according to the proposition contained in the constitution of the State; and they deem it expedient so to settle and establish it. They therefore report the bill referred to them without amendment."

Such, sir, is the report, upon which the bill, after having undergone in the Senate the customary discussion, (for that body wants not the talent or the inclination to debate,) passed by a vote of thirty to nine.

And if the Territory was not represented on the floor of the Senate, that misfortune was fully countervailed by the opposition to the bill arising from the sympathy which the misfortune itself excited, as well as by the additional argument of the gentleman from Michigan, forwarded, in the form of a printed circular, to each member of the Senate, during the pendency of the discussion.

And now, sir, after this subject has made the round of both Houses; passed through the crucible of two committees; received the sanction of the Senate as a law; and come again to this House, accompanied by the mass of printed reports, arguments, documents, and maps, of which I have before spoken, the gentleman moves a reference of the subject again to a committee, for the ostensible purpose of having another report, preparatory to the final action of this body. And in support of his motion the gentleman has urged—

1st. That the reference is necessary, not so much as it would seem for the purpose of placing the subject in a more distinct point of view before the House, as because that is, in his opinion, the more regular parliamentary course.

2dly. That the question presented by the bill is judicial in its character, belongs to the Supreme Court, and therefore without the power of Congress; and,

3dly. That the State of Ohio is already great and powerful enough, and that the Territory of Michigan is comparatively small and feeble.

It would require but little effort to show, that each one of these three arguments possesses in itself the important attribute of being a triumphant answer to both of the others; and that, taken collectively, they oppose a direct negation to the ostensible motive assigned by the gentleman for his motion. To the first of the arguments I have already given an answer, even if it were not sufficiently answered by the other two. To the second, which puts this question of boundary beyond the power of Congress, and into the Supreme Court, I will respond, and ask the gentleman why, if this be a judicial question, did he, in his letter to the chairman of the Senatorial committee, congratulate himself upon the pendency of the bill in the Senate, and the prospect of the final adjustment of the question? Why did he acquiesce in the legislative action which that body were then exerting over the subject? Why did he, in his printed argument addressed to the Senators, urge upon them the justice and expediency of their fixing the contested boundary according to the claims of the Territory, if he believed they had no right or power to fix the boundary at all? And why does the gentleman now, instead of moving to reject or lay the bill upon the table, seek its reference to a committee, when, in so doing, he again evidently recognises legislative jurisdiction of the subject.

But, sir, to suppose this to be a judicial question is to suppose a case that can never be adjudged. It is to suppose the possibility of a litigation, without parties litigant. The Territory can neither litigate as an individual or a State, for the plain reason that she is neither the one nor the other. She possesses not an attribute by which she can, according to the constitution of the United States, be recognised as a party upon the calendar of the court. As a Territory she enjoys but a transitory existence, and stands to the General Government in the relation of a community, of temporary and imperfect organization, dependent upon a superior, from which it derived its being.

Sir, the truth is, that this bill does not present an issue between the State and the Territory. If an issue it could be called, it would be an issue between the State of Ohio and the United States. The only connexion which Michigan has with the subject, is the prospective interest she may, as a matter of policy, have in the adjustment of the question by Congress, anterior to her admission into the Union as a State.

This view of the subject does not break, but increases the force of the argument I have urged against the jurisdiction of the Supreme Court over the question. The question arises upon the previous acts of Congress, in reference to a subject-matter over which Congress yet possesses illimitable control. And because the subject is still within legislative control, it is for that very reason that the judiciary cannot be called in to supersede Congress. Whether Congress should, in the act authorizing the people to form a constitution for Ohio, fix the northern boundary at the line for which we contend, or elsewhere, was exclusively a question of expediency and discretion with Congress alone. Whether the boundary were fixed by the one or the other of the contested lines, no other State or power could complain, since no State or power, whose rights or interests could be in anywise affected, then existed there.

If, therefore, there be in the act authorizing the formation of the State Government of Ohio, or in the constitution of the State with which Congress admitted her into the Union, any ambiguity as to the line intended as her boundary, has not Congress the power to remove that ambiguity, at the instance of the State, by an act declaratory of what was the original intention of Congress? I shall insist, not only on the affirmation of this question, but also that it is the duty of Congress so to do—a duty with which it has no power to dispense.

The constitution of the United States, in distributing the powers and duties of Government among the several departments, has authorized neither one to transfer, either

directly or indirectly, any portion of these powers or duties to either of the others. Such an authority would speedily remove the barrier which separates the departments; throw all power into one miscellaneous mass, and the country itself into hopeless anarchy. I must, therefore, be permitted to maintain that the settlement of this question of boundary being now within the competency and among the duties of the legislative power, Congress has no right to withhold its action, and, by postponing the question until, by a future act of legislation, Michigan shall be admitted into the Union, indirectly transfer the subject for adjustment to the Supreme Court. The question may be evaded now, by the reference of this bill, but it must recur again whenever a bill shall be reported here for the admission of Michigan. Such a bill must necessarily define the boundaries of the intended State. The question will then arise, can Congress bound the new State by the northern boundary line of Ohio, whilst the very existence of that line is disputed and unknown, and whilst Congress alone can know, but still refuses to say, where it is or where it should be? If, then, the question must necessarily arise, does it not seem the policy of both Congress and the Territory, that it should be settled now, in a separate bill? Or does the gentleman from Michigan suppose that he will quicken the advance of his Territory, from the humility of a dependent condition to the dignity of a State, by imposing upon her the weight of this ligation?

Sir, the question presented by this bill is one of a peculiar character and peculiar delicacy--such a question as never can arise under any other political system than our own. It is a compound question of expediency and right --of expediency on the part of the General Government, arising from considerations of general policy; and of right on the part of the State of Ohio, so far as she may be said to hold that by right which she has derived from Congress, and of which Congress cannot, without injustice, divest her.

But let it be supposed that Congress has the power to dispense with the adjustment of this controversy until Michigan shall have been admitted into the Union, and, in so doing, to transfer it, in the form of a law suit, to the Supreme Court. Will it be expedient, with prudential regard to the general good, so to do? Will it be wise and circumspect, with reference to the delicate structure of our political fabric, not only to admit a State into the Union while she is carrying on an imbittered contest with another, but to create that contest by the very act of admission; as if, because the judiciary may be the common arbiter between the States, Congress had determined to become the common source of their litigation? Sir, the perpetuity of the Union depends upon the harmony of its parts; and we should seek to preserve rather than disturb that harmony. The decision by Congress of this, and, indeed, of all other questions partaking of a political character, and affecting the interests of communities, will be acquiesced in more willingly by the parties, than if such decision were rendered by the Supreme Court; and that upon a principle founded in the nature of man, and which is powerfully developed and strengthened by the action of our political system. The tone of the age is, that responsibility shall accompany power.

Questions of boundary between States are the last to which Congress should give rise, as they are ever contested with the most immitigable violence and invincible obstinacy. They are so, because they always involve the extent of territory, and, therefore, the resources, power, and pride of a country. Such questions ever have, in all ages and countries, been the pregnant source of the most interminable strife and lasting calamity. Rights of boundary are those which, above all others, States and nations most vigilantly guard and reluctantly surrender—a truth beautifully illustrated by the metaphorical genius of the Roman mythology, which ascribed to Terminus the stubborn virtue of being the last of the gods to abandon his charge, even at the bidding of Jupiter himself.

I have said that the question presented by this bill is a question of right on the part of Ohio, so far as she may be said to hold that by right which she derived from Congress, and of which she cannot be justly bereft.

Although I am aware that the motion now before the House precludes the discussion of this question upon its merits, yet I trust that I may be indulged in alluding incidentally, but briefly, to some of the facts and circumstances connected with the subject, in order to show the injustice the State must suffer, so long as Congress shall refuse or omit to act upon it.

The Maumee river, one of the largest, and, indeed, the only valuable stream in that region of the country, finds its source at a point near the dividing line of Ohio and Indiana, and, after stretching its almost entire length through the northwestern portion of the former, terminates in the western extremity of Lake Erie, where its mouth assumes the name of the Maumee bay.

The enterprise of our State has contemplated, and in part executed, the important project of connecting, through the Maumee, the waters of the lake with those of the Ohio, by a canal extending north, from the latter, until it intersects the former of these rivers.

Upon this object Ohio has exhausted near a million of her resources, in the hope that Congress would, before this, have yielded to her repeated petitions, and, by the passage of a bill like that before the House, removed the only obstruction to the ultimate accomplishment of the work. The State had a right to expect it, because she had a moral, and, as I believe, a legal right to demand it; and because, also, Congress had, by a contribution of public domain to the execution of the canal, become interested in its completion, and recognised the right of the State to the enjoyment of the river—a right which she can never enjoy unmolested whilst the mouth of the river itself, the only entrance to the lake, remains in another or a doubtful jurisdiction: for the House will observe that the line for which the Territory contends is protracted due east from the southern extreme of Lake Michigan, and intersects the Maumee river at a point but a few miles above its mouth. Thus, whilst the entire body of the stream is within the limits of Ohio, its necessary termination, the outlet to Lake Erie, is, by this line, taken into the jurisdiction of what is soon to become another State. The consequences of this state of facts cannot be unforeseen. Ohio will hesitate in her work whilst she sees the possibility of having to depend, for the enjoyment of its fruits, upon the justice, generosity, or caprice of another State.

This unnatural condition of things, realizes an instance of the very evil of which Virginia, in ceding the country to Congress, and Congress in accepting the cession, anticipated the possible existence, and against the occurrence of which both sought to provide a precautionary guard. And it is the very evil itself, against which Ohio, too, thought she had sufficiently guarded, by an express proviso in her constitution. Throughout all the legislation of Virginia and of Congress, upon the subject of the Northwestern Territory, one great and leading idea constantly predominates—and that is, that, in defining the limits of the intended States, reference should be had alone to the general good of each and of all; and that nature should, therefore, be consulted, and her own boundaries duly respected.

So intent was Congress upon this object, that, even after the deed of cession had been solemnly executed, a resolution was passed, appealing to Virginia so to alter the deed as to enable Congress to apportion the ceded territory out into States, in accordance with that object.

The preamble and the resolution are in these words:

"Whereas, it appears, from the knowledge already obtained of the tract of country lying to the northwest of the river Ohio, that the laying it out and forming it into States of the extent mentioned in the resolution of Congress of the 10th of October, 1780, and in one of the conditions contained in the cession of Virginia, will be productive of many and great inconveniences; that, by such a division of the country, some of the new States will be deprived of the advantages of navigation; some will be improperly intersected by lakes, rivers, and mountains; and some will contain too great a portion of barren, unimproveable land; and of consequence will not, for many years, if ever, have a sufficient number of inhabitants to form a respectable government, and entitle them to a seat and voice in the federal council: And whereas, in fixing the limits and dimensions of the new States, due attention ought to be paid to natural boundaries, and a variety of circumstances which will be pointed out by a more perfect knowledge of the country, so as to provide for the future growth and prosperity of each State, as well as for the accommodation and security of the first adventurers. In order, therefore, that the ends of Government may be attained, and that the States which shall be formed may become a speedy and sure accession of strength to the confederacy:

"*Resolved*, That it be, and it hereby is, recommended to the Legislature of Virginia to take into consideration their act of cession, and revive the same, so far as to empower the United States, in Congress assembled, to make such a division of the territory of the United States, lying northerly and westerly of the river Ohio, into distinct and republican States, not more than five nor less than three, as the situation of that country and future circumstances may require—which States shall hereafter become members of the federal Union, and have the same rights of sovereignty, freedom, and independence, as the original States, in conformity with the resolution of Congress of the 10th October, 1780."

Congress anticipated the assent of Virginia to this proposition, and passed the ordinance of 1787, by the fifth article of which the ceded territory is apportioned into States. During the succeeding year Virginia formally acquiesced in the resolution of Congress, and, for so doing, gave the reasons given in the preamble.

Is it then possible that it ever could have been the intention, or can now be the policy of Congress, to hold Ohio to a line which cuts off the mouth of one of her most valuable rivers; and, in so doing, clearly defeats the great and cardinal object that Congress had in view in asking Virginia to alter her act of cession? It cannot be.

Virginia, who had gone first into the war of the Revolution, and come last away, bleeding, from the field, presented herself to Congress, the common representative of the States, and there, with a generosity, magnanimity, and patriotism, unequalled in the history of mankind, ceded, for the common good, a country whose ample limits encircled an empire of territory. She ceded it with no other material conditions than those which Congress itself had suggested, and the principal one of which was that, in the formation of States, "due attention ought to be paid to natural boundaries," that they should not "be deprived of the advantages of navigation," or "be improperly intersected by lakes, rivers, and mountains." And yet it is pretended that Congress has violated, and must continue to violate, this condition; violate nature, and disregard the plainest dictates of justice and expediency, by throwing the whole body of a river into one State, and its mouth into another; and this, sir, for what reason or purpose? The interests of the Union, of which the General Government is the representative, are the interests of all its parts. Why, then, should Congress have sought to do one State an injury, without even the excuse of intending benefit to another?

But, sir, if we are thus absurdly to suppose such was the intention of Congress, we must also suppose that, in receiving Ohio into the Union with the constitution she presented, Congress intended an act of deliberate perfidy towards the State. At the time the constitution of the State was formed, the exact position of Lake Michigan, and the natural features of the country above it, were unknown. All was a wide, wild, unmeasured waste of woods and waters. The white population had not advanced so far to the west. Nature was there—nature unchanged. The sombre forest was still the unviolated habitation of its native sons, whose sullen valor had yet to encounter the victorious genius of civilization. It was impossible, therefore, to foresee whether the line drawn due east from the southern extreme of Lake Michigan, would or would not strike Lake Erie north of the Maumee bay, so as to include it within the limits of Ohio, or even whether that line would strike Lake Erie at all; and if it did, whether high enough north to intersect, in the centre of that lake, the territorial line between Canada and the United States; that line being made, by all the legislation on the subject, the northern boundary of Ohio.

To meet the contingency that might arise from the doubtful position of Lake Michigan, the convention of Ohio, after, in the sixth section of the seventh article of the constitution, bounding the State, in the words of the act by which the formation of the State Government was authorized, proceeded to insert the proviso which I will read:

"Provided always, and it is hereby fully understood and declared by this convention, that if the southerly bend or extreme of Lake Michigan should extend so far south that a line drawn due east from it should not intersect Lake Erie, or if it should intersect the said Lake Erie east of the mouth of the Miami river of the Lake, then, and in that case, with the assent of the Congress of the United States, the northern boundary of this State shall be established by, and extended to, a direct line running from the southern extremity of Lake Michigan to the most northerly cape of the Miami bay, after intersecting the due north line from the mouth of the Great Miami river as aforesaid; thence, northeast, to the territorial line, and, by the said territorial line, to the Pennsylvania line."

It is necessary to remark that the territorial line named in the proviso is that between the United States and Canada, and which passes through the centre of Lake Erie; and that the river there styled the Miami of the Lake is the same of which I have spoken by the title of the Maumee. It is known by either name; and when spoken of as the Miami, is called the Miami of the Lake, to distinguish it from another river of the same name, which is commonly known as the Great Miami, or the Miami of the Ohio, to which it is tributary.

Congress being equally uncertain as to the position of Lake Michigan, and having in the original odinance reserved to itself the power of attaching to Ohio all of the country north of an east line drawn from the southern extremity of that lake, admitted the State into the Union with this proviso in her constitution.

Did Congress, then, make any mental reservation on this subject? Was it intended, at a future day, when the contingency against which this proviso was introduced as a guard should actually happen, to revoke the proviso, and say to the State: We were sporting with your credulity; we regret that your youth and inexperience mistook the rule of our faith and honor.

The constitution, with the proviso, was sanctioned by Congress, as an instrument entire. The reason for the proviso was known. Its necessity was recognised. The State was put in possession of the bay and the disputed territory. Congress extended the laws of the Union over them, as being within the judicial district of Ohio—and are we yet to be told that this meant nothing? Congress could have had no interests conflicting with, or

hostile to, those of the State. The interests of one were those of the other. There were then no neighboring States in that quarter of the Union which could acquire or lose territory, or any thing else, by fixing the northern boundary of Ohio. What motive or reason was there, then, for premeditated injustice to the State? And yet we must find a motive, or abandon the absurdity of supposing Congress to have intended such a course towards Ohio.

There is but one consideration more to which I will ask the attention of the House.

The Delegate from Michigan contends that a due east line from the southern extremity of Lake Michigan, as the position of that lake is now known to be, is, by the original ordinance and other legislation of Congress, made the fixed and inviolable boundary of Ohio; but still, the gentleman admits that the Canadian line passing through the centre of Lake Erie is also made, by the same authority, the boundary of the State. Now, sir, the physical relation of the two lakes renders it absolutely impossible for both of these propositions to be true. A line, to be due east, must be duly straight, otherwise words mean nothing.

In the preamble and resolution requesting Virginia to alter her deed of cession, and which I have before read, Congress states the geography of the country to be imperfectly known. The maps of that period had fixed the southern termination of Lake Michigan at a point higher north than that to which Lake Erie actually extends, and at which the Maumee bay is formed. Congress being governed exclusively by these maps, in framing the ordinance, prescribed a line drawn due east from a point then supposed to be the southern extremity of Lake Michigan, and also the Canadian line in Lake Erie, as the northern boundary of Ohio. Because a due east line, from the point supposed, would intersect the Canadian line in the lake, and that, too, far north of the Maumee bay. The east and the Canadian lines were therefore consistent with each other, and, together, constituted a perfect boundary for the State. Unfortunately, however, Lake Michigan is found, by subsequent examination, to extend some ten or fifteen miles further to the south than was supposed. The consequence is, that a line drawn due east from its southern extremity, instead of intersecting the Canadian line in the centre of Lake Erie, and there, together with that line, forming the northern boundary of Ohio, according to the ordinance and other legislation on the subject, does not intersect it at any point whatever; but, after crossing the Maumee near its mouth, cuts the indented shore of the lake, passes through the northeastern corner of our State, and there intersects the Pennsylvania line, which is her eastern boundary; and thus, sir, leaves the northeastern corner of Ohio so cut off, and the wide interval between the line itself and the centre of Lake Erie, out of the limits and jurisdiction of any State or Territory whatever. So that Ohio does not only lose the mouth of the Maumee, and a part of three of her largest counties in the northeastern section of the State, but is also deprived of the Canadian line as a boundary, and of almost the entire coast of Lake Erie; and that, too, in direct contravention of the express provisions of all the legislation of Congress.

But it may be said, that it is not contended that the line is to be extended due east, further than it is necessary to intersect the Canadian line. To this I answer, that no due east line at all will ever intersect it; and that, if this line is to swerve from its due east course, in order to accommodate itself to the Canadian line, it is no longer a due east line, and the whole argument on the other side is therefore given up; for the very point in question is, whether this shall be an inflexible due east line or not. The gentleman must bend his line, in order to avoid the difficulty of not intersecting the Canadian line; and when this line once loses its due east course, it may take any other, and be made to accomodate itself to the object of including the Maumee bay within the limits of Ohio, as well as to that of intersecting the Canadian line.

Such is the result of insisting upon the inflexibility of this east line, which Congress itself has disregarded and violated, in prescribing the boundaries of Illinois and Indiana.

But, sir, it has been said that Ohio is already great and powerful enough. Such an argument would seem to be addressed to the envy, jealousy, and apprehensions of the other States; and, if so, becomes not this place. It presupposes the Union dissolved, and the States in the relation of hostility to each other.

True, sir, Ohio is truly great. Great in the exhaustless fertility of her soil; great in the freedom and liberality of her institutions; great in the number and character of her people, great in their moral elevation, their spirit of enterprise, and their fervent patriotism.

But is this a reason why she should receive injustice at the hands of Congress? If, in the innocence of infancy, she enjoys the benefits and exerts the vigor of maturity; if, upon the beauty of youth, she has ingrafted the rigorous virtues of age, shall she for these reasons be the less welcome at the family board of her sister States?

Sir, Ohio is the last of the new States towards whom the old thirteen should look with displeasure. Within her limits, thousands of their sons have found hospitable homes. Within her valleys, upon her hills and her plains, they now repose in peace, in plenty, in freedom, and happiness. Nor is her hospitality yet exhausted—she still bares her teeming bosom to the honest emigrant from every State, clime, and country.

As a State, her greatness is, in part, the greatness, strength, and glory of the republic. Whilst that stands, she stands ready to defend it; and whether you give her a boundary or not, she will never permit invasion to cross yours. In peace and in battle she will prove among the brightest stars upon your flag, and among the last to sink down obscured in the gloom of despotism.

After Mr. ALLEN had concluded,

Mr. LYON obtained the floor to reply, but was prevented by the expiration of the hour allotted to morning business.

The House then again proceeded to the consideration of

THE KENTUCKY CONTESTED ELECTION.

The question being on the amendment moved by Mr. POPE to the resolution reported from the committee—

Mr. McKINLEY said it was out of the question that the whole of this session should be given up to this subject, however important it might be to the State and individuals concerned. We must take up the subject with a determination to get through with it, in order to attend to some other business. If it was not finished to-day, he should move the postponement of its further consideration to Wednesday next.

Mr. HARDIN moved to amend the amendment of Mr. POPE, by striking off certain names from the poll of Mr. Moore, and inserting the names previous to those in Mr. POPE's amendment.

The CHAIR decided that the proposition was not in order, as it was not in effect so much an amendment to the pending amendment, as a motion to exclude the balance of the amendment from consideration.

After some remarks from Mr. FOSTER,

Mr. HARDIN withdrew his motion.

The question being on striking from Mr. Letcher's poll the name of Gerrit Voorhis, it was taken, and determined in the affirmative.

The question was taken on striking off the name of L. P. Haaye, and decided in the negative.

The question was taken on striking off the name of William Woolsey, and decided in the negative.

The question being on striking off the name of James Moornor, it was decided in the negative.

The next name, being that of Robert Tigg, was stricken off.

The question being on striking off the last name (William Morely) in the first resolution of Mr. POPE's amendment—

Mr. MARSHALL moved to amend the amendment by striking off several names from the poll of Mr. Moore, they being, as he contended, proved to be minors.

The question being then taken on striking off the name of William Morely, it was agreed to.

Mr. GILLET, with a view, he said, to save time and bring the subject to a close, moved a substitute for the resolution and amendments, striking out the resolution and amendments, and inserting, that ———, of the 5th Congressional district of Kentucky, is elected to a seat in this House.

The CHAIR decided that the motion was not in order.

Mr. GILLET appealed from the decision of the Chair.

Mr. SPEIGHT supported the decision of the Chair.

Mr. GILLET withdrew the appeal, intimitating that, when the amendments under consideration were disposed of, he should renew his motion.

The question then being on striking from the poll of Mr. Moore certain names embraced in the amendment of Mr. MARSHALL, the following names were severally stricken off: Richmond West, Archibald Gordon, Anthony Long, and Joseph Henley.

The question was taken upon striking out the name of David B. Hughes, after considerable discussion, and was determined in the negative: Yeas 72, nays 105.

Mr. WISE had taken no part in the contest, and had become sick of the delay which it had occasioned. For the purpose of putting an end to the difficulty in which the House was involved, he offered a resolution declaring the election for the 5th Congressional district of Kentucky to be void, for irregularity and uncertainty, and directing a new election to be held.

The CHAIR (occupied temporarily by Mr. SPEIGHT) decided the resolution to be not in order.

Mr. MILLER inquired whether it would be in order to postpone the resolution and amendments now before the House, and take up this resolution?

The CHAIR decided it would not be in order.

Mr. WISE inquired whether a motion to lay the resolution and amendments on the table would be in order?

The CHAIR replied in the affirmative.

Mr. WISE made that motion.

Mr. MARSHALL moved a call of the House.

Mr. WISE then withdrew his motion.

The question was then taken on striking off the name of H. Horine; which was carried: Yeas 114, nays 39.

Of Joshua Grimes; which was negatived without a division.

Of H. H. Thurmur; which, after a long discussion, was negatived—62 to 67.

The question then recurred upon the second branch of Mr. POPE's amendment, striking off the names of certain voters from the poll of Mr. Letcher, on account of non-residence.

The first name, that of William Quin, after the reading of the testimony, the House refused to strike off.

The House also refused to strike out the name of John McCoy.

The question was then taken on striking off the name of Greenbury Peyton; which was agreed to—and of William Welsh; which was negatived.

Mr. MARSHALL then moved to amend the above part of Mr. POPE's amendment, by adding certain names, to be stricken from Mr. Moore's poll for non-residence,

Mr. McKAY rose and said, it was evident that it was now time to bring this subject to a close, as we had spent a long time upon it, and there still seemed to be no prospect of arriving at a result. For several days past we had been engaged in the examination of individual votes. Were members bound by these votes? He thought not. He voted against the admission of the students; the House voted otherwise. Must he be bound to vote for Letcher because the House had made that decision? Certainly not. Each member was bound to decide upon the case according to his view of the whole. He moved to commit the report of the committee, with all the amendments, to the Committee of the Whole House, with instructions to report a resolution declaring that the election of Representative to Congress, in the 5th Congressional district of Kentucky, in August, 1833, is void, from uncertainty and irregularity, and that neither of the claimants is entitled to a seat.

Mr. E. EVERETT made some objections to the reception of the motion, on a point of order.

The CHAIR decided that the motion was in order.

Mr. HARDIN wished the question on the motion to be taken in a full House, and he therefore moved a call of the House; which was ordered.

After the call had been proceeded in for some time,

The Sergeant-at-arms was directed to notify the absentees.

Mr. DAVENPORT moved to suspend all further proceeding in the call, in order to admit the absentees at the door; which was agreed to.

Mr. WILDE moved that all further proceeding in the call be suspended; which was agreed to.

The question recurring upon the motion of Mr. McKAY, it was modified by the mover so as to commit the subject to the Committee of the Whole House, with instructions to report a resolution requiring a new election to be held in the 5th Congressional district of Kentucky, it being impossible for the House to determine who was elected at the election held in August last.

Mr. GILMER opposed the motion. He did not conceive that there was any difficulty in ascertaining which of the claimants received a majority of qualified votes. He was at a loss to discover the uncertainty, in this case, which was talked of. Mr. Letcher came here with forty-nine more votes than Mr. Moore, and there could be no uncertainty until forty-nine votes were stricken from Mr. Letcher's poll. There was informality, no doubt, in the manner in which some of the votes were taken, but not such informality as justified us in excluding the votes. According to his calculation, Mr. Letcher had a majority of thirty votes, after excluding the nineteen votes taken on the second day in Garrard county, and two students who were not citizens of Kentucky.

Mr. WISE said he should vote for the proposition. The irregularity and informality of the proceedings, during the election, could only be equalled by the irregularity and informality of the course which had been adopted by the House. We were now precisely where the case had originally started, excepting that the House had decided that a few votes should, and a few others should not, be counted for the respective candidates. One of the candidates alleges that there are no poll-books before the House, and the gentleman from Georgia [Mr. GILMER] alleges that, by the poll-books, Mr. Letcher has a *prima facie* majority of forty-nine. Has the House been willing to receive the *prima facie* evidence on either side? The case has been sent to a committee of the House, who had reported the result of a most laborious examination. The House have neither ratified nor confirmed that result. If the principles adopted by the committee were carried out, with all deductions which seemed to be reasonable, Mr. Moore has a majority of twelve or thirteen votes. On the other hand, taking the copies of the books produced by

Mr. Letcher, and making the necessary deductions, there was about a similar majority for that candidate. For himself, he felt perfectly indifferent upon the question. He had entered into no party feelings on the subject. From the commencement he had been of opinion that the election should be sent back, and he would take upon him to say that, any moment when the friends of either candidate thought he was in danger, they would have been ready to have given their support to this proposition.

Mr. CLAYTON opposed the motion to commit. Had the sheriff of Lincoln county done his duty, Mr. Letcher would have taken his seat under a regular certificate. Mr. C. made some comments upon the remark of Mr. McKAY that he did not feel bound by the votes which had been decided by the House. We had gone through on one side, and we ought now to go through the other. He was willing to meet the result.

Mr. ANTHONY said he had hitherto been a listener to the discussion which had grown out of this contest, and would ask the indulgence of the House, while he stated his accordance with the views of the gentleman from North Carolina, as he had been for some time convinced of the impracticability of coming to a satisfactory conclusion upon the large mass of contradictory testimony which had been taken in this case. He stated that there were upwards of eleven hundred pages before him, out of which the conclusion was to be drawn who was entitled to the seat; that the majority on either side was not contended to be more than ten or a dozen votes, the evidence was so doubtful and conflicting that he had found it utterly impossible to satisfy his mind, without neglecting those other important duties which devolved on him as a representative. From the manner in which other members had voted upon several questions relating to the matter, it was obvious that many were in a similar situation.

The immense mass of testimony compelled gentlemen to take the facts, to a certain extent, upon trust; they had to rely upon the faith which they had in the statements of those who had examined the evidence, and although it might with propriety be said that "faith without works is dead, being alone," yet he candidly apealed to other gentleman to say whether they had carefully read these 1,100 pages, so that they were enabled to determine who was legally and duly elected a member of the 5th congressional district of Kentucky, or whether they had pinned their faith on the sleeves of the Committee of Elections on the one side, and on certain members who attentively considered the subject on the other?

The honorable gentleman from Georgia had remarked that the questions in dispute were matters of law, and not of fact. To a certain extent he was correct; but many questions involved in the decision were of complicated doubtful facts, about which there was a variety of evidence on both sides, and it was extremely difficult to arrive at the truth.

He admitted the propriety of counting the votes taken at the Garrard poll before 10 o'clock on the first day, and during the absence of the sheriff on the second, when he was attending to the highest of all earthly duties, the sick bed of a dying wife, was a question of law which did not involve any controverted facts; yet the votes of the students at Danville College, the Salvisa votes, as well as those of minors, non-residents, &c. which had occupied the House for some days, were no more or less than sheer questions of fact; and, until members agreed on the fact, it was impossible to determine the law in such cases. It was only necessary, in order to show how difficult it was to arrive at a just conclusion, to state that, on the proposition to deprive Mr. Letcher of nineteen votes, given during the sheriff's absence on the second day, the gentleman from Georgia was in a small minority; and yet that gentleman was willing to take the opinion of the House on that point and forego his own; because, as he said, it was a question of law. For his part, he agreed that, in law, the rule *stare decisis* should usually prevail; but, in this case, he would vote according to the best of his judgment on every question made, and would not consent that a majority of the House should, by their decision on isolated points, control the ultimate vote he might give.

Mr. A. said that on a question involving, as this does, the right of suffrage, party feelings ought to be altogether discarded. That, so far as he knew himself, he could conscientiously declare that he was influenced by no such feelings; and that he had voted to give Mr. Letcher the votes taken in Lancaster before 10 o'clock, and those given in the absence of the sheriff. He had voted against the admission of those which were given by the college students; yet he was free to acknowledge that he had some doubt as to the correctness of all the votes he had given, principally on account of the uncertainty of the facts. On the several questions relating to minors, non-residents, &c. he had endeavored to vote as he deemed right, without the least regard to either of the parties; but he could not pretend to say that he had perfect confidence in the conclusions at which he had arrived. Whether in the majority or the minority, he had always found himself among gentlemen of high legal attainments, eminent talents, and, in every respect, much better qualified to decide than himself.

Such being his situation, he was perfectly indifferent whether Mr. Moore or Mr. Letcher obtained the seat; he had no predilections to gratify; they were both gentlemen of the highest respectability, and stood on equal footing; either of them, he had no doubt, would do honor to himself as well as the district. Should the resolution of the member from North Carolina prevail, the candidates would return to the district unprejudiced by this investigation. Mr. Letcher, on the one hand, would have the "*prima facie*" evidence in his favor, of which he was deprived by the improper and highly exceptionable conduct of the deputy sheriff of Lincoln. While, on the other hand, Mr. Moore would have the report of the Committee of Elections in his behalf, and which every gentleman of this House would admit, afforded a strong presumption that he was duly elected, after the long time and assiduous attention that talented and respectable committee had devoted to the investigation.

Mr. A. said that the session was now drawing rapidly to a close; we had but a few days before us, and were we to proceed in canvassing all the contested votes, when would this matter end? We had much important business, indispensable to be acted on, and little more than two weeks remained. Would it not, he asked, be the fairest, the safest, the most correct course to send back the election to the people, the source, of all power; they are capable, they are doubtless willing, to settle this controversy. That congressional district can gain little or nothing by either of those gentlemen taking his seat for the few remaining days of the session. If they return home to their constituents the qualified voters will decide between them, and this House will be spared the necessity of deciding a question which, to say the least of it, is one of a very doubtful character.

Mr. A., in conclusion, observed that if a majority of the members believed they understood this case thoroughly, and were prepared to decide it, he would be perfectly satisfied that thay should reject the proposition now before the House; but if, like himself, they could not come to a satisfactory conclusion in their own minds who was duly elected, the proper course, in his opinion, was to declare the election void, for uncertainty and irregularity, and to let the people of the fifth congressional district determine who shall be their representative.

If he were compelled to decide the main question, although he would do it with great reluctance, as it was so intricate as even to puzzle a Philadelphia lawyer, yet he

would not shrink from the performance of that duty, according to the best light which he had before him. He would not say that he should be guided in his vote by the report of the committee; but certainly, as it came from a standing committee of this House, who had been elected for their talents, their industry, their respectability, and impartiality, it was entitled to great consideration.

Hoping, however, that he would be spared the necessity of a decision between those honorable gentlemen, he should have no hesitation to send them home, and leave this vexed, this intricate, this perplexing and uncertain question, to the determination of their constituents.

Mr. MANN moved the House adjourn, which he immediately withdrew.

Mr. ADAMS regarded the motion of Mr. McKay as an unconstitutional proposition, as the House was made the judge of the election of its members. The House could not, constitutionally, evade the question; it must judge of the election. The proceedings of the Committee of Elections, as well as the House, have gone on the ground that an election has been made. Most of the principles introduced have been settled. If the House should go a little further there will be no difficulty. Instead of sending it to the Committee of the Whole, with instructions, he hoped the House would sit until it decided whether Mr. Letcher or Mr. Moore is entitled to the seat.

Mr. McKINLEY said it was true that the House was to judge of the election of its members; but it cannot be said that this House is a court, and must be governed by the rules of a court of justice. In giving his final vote he could not be controlled by the decisions which had been made by the House upon individual cases. He was responsible for his own vote. What the result would be, upon a computation founded on the decisions of the House, he could not say; but he could say that he was very much dissatisfied with some of the decisions, and he believed that most gentlemen were in the same situation. We have had questions of nonage, upon which decisions diametrically opposite have been made. Almost every principle which had been recognised had been contradicted by other votes of the House. We had undertaken to be governed by the laws and constitution of Kentucky.

But the application of the principles of the laws and constitution of Kentucky had been ridiculed; and we have been told that we should only regard the rules of substantial justice. The great question in his mind was, will the decision of the House do justice to the candidates and to the people? That had been his desire from the beginning. He was willing to send the subject back to the people, and would be contented with their decision.

Mr. BINNEY supposed this would be the closing argument, which was his apology for a few remarks. After spending many days upon this subject, it is now proposed for the House to say that it has found a decision of the case impracticable. Every gentleman who votes in the affirmative so says to himself, though he has been called on by every consideration of duty to make a decision. As to the difficulties which had been suggested by gentlemen in coming to a satisfactory decision, all they had to do was to adhere to the principles on which they had voted. If they could not remember on what principles they had voted, that reason should be assigned. After the laborious investigation of the candidates, and the thorough examination of the committee, all that was not brought into doubt should be regarded as established on either side; the ground was, therefore, greatly circumscribed; gentlemen had no right to stultify themselves. The constitution, and their constituents, had made the members of this House judges of this election. There can be no question more simple than that before the House. It is said there is a mass of evidence. Does this render a decision impracticable? It is only so to those who shrink from the labor of investigation.

Mr. SUTHERLAND believed he had shown, from the commencement, a willingness to meet the question. He should support the proposition without intending to stultify himself. He was willing to repose the power of deciding this question with the great fountain of power—the people themselves. The people of the fifth congressional district could settle it more accurately than this House could. They are better acquainted than we can be with both candidates and witnesses. We had a question arising as to the relative truth of two brothers by the name of Horine. The people of Kentucky know all about these Horines. They also know the sheriff whose conduct has given rise to so much remark. Not being afraid to meet the people, he was for sending it back. If either candidate should receive a seat, he would not retain it but twenty days. He would tell them to go home to their friends and lay the case before the people, in whose decision every confidence could be placed.

Mr. WISE made some remarks in reply to Mr. Binney. It was no difficulty as to principles, but doubt as to facts, which rendered a correct decision by the House impracticable. Twenty or thirty votes depended upon conflicting evidence, which it was impossible to decide upon.

Mr. LINCOLN opposed the proposition to commit, on the ground that the House was bound to discountenance the proceedings of the sheriff who withheld the poll-book, whose object was to send the election back to the people. He was unwilling that the House should be made an instrument in promoting the design.

Mr. McKAY, after a few remarks, expressed a willingness to modify his proposition by striking out the reason assigned in the resolution.

The yeas and nays having been ordered—

The question was taken on the motion to commit to the Committee of the Whole, with instructions, and carried: Ayes 113, noes 109.

Mr. FILLMORE moved an adjournment; which was negatived: Ayes 100, noes 103.

Mr. McKAY moved that the House resolve itself into Committee of the Whole.

Mr. MARSHALL opposed the motion. The subject was not before the House; it had been committed, and there were many orders standing in Committee of the Whole before this.

Mr. EVANS also contended that, being committed to the Committee of the Whole, it must take its rank among the orders of the day. It was not now in the power of the House to reach it.

Mr. CLAYTON, Mr. MERCER, and Mr. WAYNE, also expressed their opinions on the question of order.

Mr. WAYNE moved an adjournment.

Mr. JONES, of Georgia, and Mr. WISE, submitted that the motion to adjourn was not in order.

The CHAIR overruled the objection.

The House then adjourned.

Thursday, June 12.

OHIO BOUNDARY.

The bill from the Senate, to fix the northern boundary of the State of Ohio, coming up as the unfinished business, the motions pending thereon, being, viz: to commit the bill to the Committee on the Judiciary, and to postpone its consideration, and make it the special order of the day for Thursday next—

Mr. SPEIGHT suggested the propriety of permitting the bill to lie on the table for the present.

Mr. VINTON remarked that his only objection to the bill being laid on the table was, that there might not be an opportunity to get it up, or acted upon, this session. He desired that the subject, if postponed, should be made the order of the day for a day certain.

Mr. LYON, of Michigan, contended that it was a fit

subject for reference to the Committee on the Judiciary, and insisted on his motion to that effect.

Mr. EWING, of Indiana, submitted a motion to lay the bill on the table, but which he subsequently withdrew in favor of Mr. WILLIAMS, who advocated the propriety of sending the bill to the Committee on the Territories.

Mr. VANCE said that, in order to terminate the difficulties felt on this subject between the State of Ohio and the Territory of Michigan, he thought a select committee, to consist of one member from each State, should be raised to consider this bill, and submitted a motion to that effect.

Mr. LYON had no objection to such a committee; only that, in this case, Ohio would be represented, whilst the Territory of Michigan would not be so.

Mr. VANCE said that he would modify his motion by striking out Ohio.

The question on the motion for a select committee, as proposed by Mr. VANCE, was then put and negatived.

The question then being on the postponement of the consideration of the bill to Thursday next—

Mr. GAMBLE addressed the House in favor of sending the subject to a select committee until the expiration of the morning hour, when, on motion of Mr. BOON, the House proceeded to the orders of the day.

THE KENTUCKY CONTESTED ELECTION.

The SPEAKER announced to the House that, on the previous evening, he had some doubts whether the election case, having been referred to the Committee of the Whole, was again the order of the day. However, on reference to the 90th rule, he was now of opinion that it was no longer the special order, but it was in the power of the House, he said, to take it up if they thought proper.

Mr. SUTHERLAND thereupon moved to make the subject the special order for this day.

Mr. STEWART moved to make it the special order for Monday next.

The question on the last motion being put, was negatived; and the other prevailed.

So the House agreed to proceed to the immediate consideration of the subject; and, on motion of Mr. SUTHERLAND, resolved itself into Committee of the Whole thereon, Mr. HUBBARD in the chair.

Mr. McKAY then moved the following resolutions:

Resolved, That neither Thomas P. Moore nor Robert P. Letcher be permitted to take a seat in this House as the representative for the 5th congressional district of the State of Kentucky, and that said seat is now vacant.

Resolved, That the Speaker of this House do notify the Governor of Kentucky that said seat is vacant.

Mr. WILDE objected to the phraseology of this resolution.

Mr. McKAY maintained that it was substantially in conformity to the instructions of the House.

Mr. SUTHERLAND proposed the following, so as to be strictly in the terms of the original instructions:

Resolved, That there be a new election for a member of this House from the 5th congressional district in Kentucky, it being impracticable for this House to determine, with any certainty, who is the rightful representative of said district.

Mr. McKAY then withdrew the resolutions proposed by him.

The resolution proposed by Mr. SUTHERLAND was then agreed to; and thereupon the committee rose, and reported the same to the House for their concurrence.

Mr. CLAYTON, of Georgia, said, as it was the evident determination of the House that this case should go back to the people for a new election, he desired that they should have a true statement of the matter, as appeared on the face of the proceedings upon it; for which purpose he moved the following as a preamble to the resolution reported to the House:

Whereas, by the returns of the election for a representative of the 5th congressional district in the State of Kentucky, it appears that Robert P. Letcher had a majority of forty-nine votes; that the said election was contested by T. P. Moore, and the Committee of Elections, to whom the same was referred, reported to this House that there was an election, and that T. P. Moore was elected by a majority of forty-four votes of all the legal votes in said district. And whereas this House, by sundry resolutions, has added to, and substracted from, the votes of each party, in the following manners, to wit:

From the majority as reported by the committee, viz:		44
They have restored the votes given on the first day before Grant, 25, viz:		
To Letcher,	22	
Moore,	3	
—making maj.		19
		25
They have restored the votes on the second day in the absence of the sheriff, 45, viz:		
To Letcher,	32	
Moore,	13	
—making maj.		19
Leaving Moore's majority		6
Restored to Letcher the votes of the Theological students,	9	
Restored to Moore,	1	
		8
Making Letcher's majority,		2
Restored to Letcher the Salvisa vote, which had been taken from him and given to Moore,		5
Taken from Moore the same,		5
		12
Restored to Letcher the votes of Jessamine,		3
		15
Taken from Letcher on Mr. POPE's amendment, June 10,		5
		10
Taken from Letcher on Mr. POPE's amendment, June 11,		4
		6
Taken from Moore on MARSHALL's amendment, June 11, to be added to Letcher,		5
		11

Whereby it appears that Robt. P. Letcher received a majority of eleven votes of all the legal votes in said district.

And whereas it appears, by motions now pending before this House, that sundry other votes are yet in controversy between the parties, and the House having stopped the investigation upon those votes which were alleged to have been illegally received by T. P. Moore.

Mr. MARDIS inquired if it was in order for him to move to lay the proposition of the member from Georgia [Mr. CLAYTON] on the table; as, if it was, he should submit that motion; not, however, because he dreaded any effect from the paper itself, but that he considered the proposition itself a direct insult upon the majority of the House.

Mr. CLAYTON. The gentleman from Alabama [Mr. MARDIS] says my amendment is an insult to a majority of the House. Sir, it is the first time, among honorable

men, that I ever heard that the truth was offensive. My amendment contains an accurate history of the facts of the case, as they appear on the records of the House; and, consequently, is the the truth, the whole truth, and nothing but the truth; and, if that is insulting to the gentleman, I would hope that he is the only one in the House that would be insulted by that virtue. I regret that it should hurt his feelings; but, I repeat, I trust no other member will consider it an annoyance.

The SPEAKER intimated that the proposition could only be received as a substitute for the resolution reported.

Mr. CLAYTON desired to have it added as a preamble.

The SPEAKER remarked that it was for the House to decide whether it should be so added.

Mr. MARDIS objected to it altogether, and insisted upon his motion to lay the proposition on the table.

The SPEAKER having decided the motion to lay on the table was not in order—

Mr. WILDE hoped that his colleague would withdraw his preamble, and permit him to offer the following resolution; after which, he said, they could, if not acceded to, have a vote taken on the other proposition.

Resolved, That Robert P. Letcher is entitled to a seat in this House, as a representative from the 5th congressional district of Kentucky.

Mr. CLAYTON withdrew his proposition, substituting therefor the proposition of Mr. WILDE.

The question recurring thereon,

Mr. HARDIN rose to address the House, but gave way to

Mr. SUTHERLAND, who rose to a question of order, viz: whether it was now in order to renew a proposition which had been substantially made by the member from New York, [Mr. GILLET,] but which had been decided by the Chair to be out of order.

Mr. CHILTON called the member from Pennsylvania to order. He had no right to question the decision, not having taken any appeal.

Mr. SUTHERLAND waived his point of order. After which,

Mr. HARDIN insisted, at some length, that the House was perfectly competent to decide the question, as it was its bounden duty to do.

Mr. POPE contended for the propriety of sending the case back to the people.

Mr. S McD. MOORE moved that there be a call of the House; which being agreed to, the House was called, and 216 members answered to their names.

After the usual proceedings, in the reception of excuses, &c. a motion was made to suspend all further proceedings in the call; which was carried by yeas and nays, 148 to 65.

The question was then put on the amendment moved by Mr. CLAYTON, declaring Mr. Letcher entitled to a seat in the House, and decided in the negative: Yeas 112, nays 114, as follows:

YEAS.—Messrs. John Quincy Adams, Heman Allen, John J. Allen, Chilton Allan, Archer, Ashley, Banks, Barber, Barnitz, Barringer, Baylies, Beaty, James M. Bell, Binney, Briggs, Bull, Burd, Burges, Cage, Campbell, Chambers, Chilton, Choate, William Clark, Clayton, Clowney, Corwin, Coulter, Crane, Crockett, Darlington, W. R. Davis, Davenport, Deberry, Deming, Denny, Dickson, Duncan, Evans, Edward Everett, H. Everett, Ewing, Felder, Fillmore, Foster, Philo C. Fuller, Fulton, Gamble, Garland, Gholson, Gilmer, Gordon, Gorham, Graham, Grayson, Grennell, Griffin, Hiland Hall, Hard, Hardin, James Harper, Hazletine, Heath, Hiester, Jabez W. Huntington, Jackson, William Cost Johnson, King, Kinnard, Laporte, Lay, Lewis, Lincoln, Love, Martindale, Marshall, McCarty, McComas, McKennan, Mercer, Milligan, Moore, Patton, Pinckney, Potts, Ramsay, Reed, Rencher, Selden, William B. Shepard, Aug. H. Shepperd, Wm. Slade, Sloane, Spangler, Steele, Stewart, William P. Taylor, Philemon Thomas, Tompkins, Turner, Tweedy, Vance, Vinton, Watmough, Wayne, Ed. D. White, Frederick Whittlesey, Elisha Whittlesey, Wilde, Wliams, Wilson, Young—112.

NAYS—Messrs. John Adams, William Allen, Anthony, Beale, Bean, Beardsley, Beaumont, Blair, Bockee, Bodle, Boon, Bouldin, Brown, Bunch, Burns, Bynum, Cambreleng, Carmichael, Carr, Casey, Chaney, Chinn, S. Clark, Clay, Coffee, Connor, Cramer, Day, Dickerson, Dickinson, Dunlap, Forester, Fowler, William K. Fuller, Galbraith, Gillet, Joseph Hall, Halsey, Hamer, Hannegan, J. M. Harper, Harrison, Hathaway, Hawkins, Hawes, Henderson, Howell, Hubbard, Abel Huntington, Inge, Jarvis, Richard M. Johnson, N. Johnson, Cave Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, Lane, Lansing, Lea, Lee, Leavitt, Loyall, Lyon, Lytle, Abijah Mann, J. K. Mann, Mardis, Moses Mason, McIntire, McKay, McKim, McKinley, McLene, McVean, Miller, Henry Mitchell, Robert Mitchell, Muhlenberg, Murphy, Osgood, Page, Parks, Parker, Patterson, Dutee J. Pearce, Peyton, F. Pierce, Pierson, Plummer, Polk, Pope, Schenck, Schley, Shinn, Charles Slade, Smith, Speight, Standefer, Stoddert, Sutherland, William Taylor, Francis Thomas, Thomson, Turrill, Vanderpoel, Van Houten, Wagener, Ward, Wardwell, Webster, Whallon, C. P. White, Wise—114.

So the House refused to declare Mr. Letcher entitled to a seat.

The question then recurring on concurring with the report of the Committee of the Whole, which declares neither of the claimants entitled to the seat, and sends back the election to the people, on the ground that the House was unable to decide between the candidates—

Mr. ADAMS moved to strike out the last clause of the report, which related to the inability of the House to decide, as being unnecessary, dishonorable to the House, and inconsistent with the vote just given.

Mr. WISE opposed the motion; and it was negatived.

Mr. CLAYTON now moved the following, as a preamble to the report, (being the same as he had before moved, by way of amendment.)

Mr. SUTHERLAND objected to the preamble, as not in order, but the Chair being inclined to the opinion that it was in order, left it to the decision of the House.

Mr. WISE objected to the preamble, on the ground that it did not declare the whole truth, and that it stated a falsehood. It did not state who had agreed to the votes recited; and it ascribed the resolution to those votes as the ground of it; which was false.

Mr. THOMSON insisted that the preamble must be considered, if at all, after the resolution, and not before it.

The CHAIR considered it as an amendment, and therefore in order.

Mr. LYON, of Kentucky, moved to lay the preamble on the table.

The CHAIR decided that this could not be done, unless the resolution itself should also be laid on the table.

Mr. MILLER, of Pennsylvania, objected to the preamble, as not agreeing with the resolution, but being directly repugnant to it: it was not logical.

Mr. DAVIS, of South Carolina, quoted the manual in support of the decision of the Chair.

Mr. CLAYTON replied to Mr. WISE, refusing to understand his language as intended to apply to himself personally.

Mr. WISE explained, and disclaimed such a meaning.

Mr. CLAYTON then vindicated the preamble as stating nothing but truth; every item of it was taken from the Journal. It did not show a good reason for the resolu-

tion, he could not help that. It told the truth. And he wished the country to see the state of the facts. On the subject of logic, Mr. C. should not apply for lessons to Pennsylvania.

Mr. JONES suggested to Mr. C. to add that the House had decided that Mr. Letcher was not entitled to a seat.

Mr. CLAYTON said he would accept this with pleasure; and he so modified his preamble.

Mr. WISE insisted on his objections to the preamble, considering it as involving an insult to the House, such as he should not suffer to himself personally, either in or out of the House.

Mr. BURGES replied, commenting with much severity on the threatening language of Mr. WISE, and then argued to prove that the preamble did state the only true ground on which the resolution proceeded, unless there were other reasons which gentlemen were ashamed to bring to the light.

After a reply from Mr. WISE,

Mr. ANTHONY replied to the allusion, by Mr. CLAYTON, to the logic of Pennsylvania, reminding that gentleman of the change in his own reasonings on the subject of a certain marble palace in Pennsylvania, and advising another visit and another lesson.

Mr. CLAYTON, after returning thanks for the invitation, declined complying, as the Legislature of Pennsylvania had changed its logic still more than he had done, decrying now, as a horrid monster what it had, when he was formerly in that State, cried up as the greatest of public benefits. [Much merriment was produced by this repartee, and the gentlemen shook hands upon the strength of it.]

Mr. SPANGLER demanded the yeas and nays; which were ordered.

Mr. HARDIN suggested that there was a slight numerical error in some of the figures in the preamble.

Mr. CLAYTON consented to withdraw the preamble; whereupon it was immediately moved by Mr. GARLAND.

Mr. CLAYTON modified it, so as to correct the error.

The yeas and nays were then taken, and stood as follows: Yeas 72, nays 137.

So the preamble was rejected.

The original resolution, as reported from the Committee of the Whole, was then adopted: Yeas 114, nays 103.

Mr. CHILTON ALLAN wished to move an amendment, fixing the seal of reprobation on the conduct of Alfred Hocker, the sheriff who had abducted the poll-book of Garrard county; but a motion to adjourn having intervened, it could not be introduced but by two-thirds. Mr. A. therefore did not press it.

The rest of the day was consumed in considering and passing a bill for the relief of Edmund Brooke, of Georgetown, to enable him to bring two negro boys into the District, after the time restricted by law had expired, that they might be in his family with their mother, instead of being sold to negro dealers.

After repeated motions to postpone the bill indefinitely, to a day certain, and to lay it on the table, and after a debate of the character which always occurs when the subject of slavery is touched in the House, the bill was passed by yeas and nays, 106 to 47.

The House then adjourned.

FRIDAY, JUNE 13.

PUBLIC DEPOSITES.

The following resolution, submitted some time since by Mr. J. Q. ADAMS, coming up for consideration:

Resolved, That the Secretary of the Treasury be directed to lay before the House the names of the presidents, cashiers, directors, stockholders, lawyers, and solicitors, of all the banks selected by him as depositories of the public moneys, in the place of the Bank of the United States and its branches; together with the amount of stock in said banks held by each stockholder, and the amount of debt due by each president, cashier, and director, of each of the banks to the said bank, at the time when it was selected as a depository, and at this time;

With Mr. POLK's amendment thereto, viz:

Resolved, That the Secretary also communicate to this House the amount of debts due by the president, cashier, and directors of the Bank of the United States to said bank at this time, or at any time within one year last past, and also the names of the lawyers and solicitors of the Bank of the United States and branches, and the amount of debt due by each to said bank at this time, or at any time within one year last past:

To which Mr. BEATY moved the following, as an amendment to the amendment of Mr. POLK:

Be it further resolved, That the Secretary of the Treasury also inform the House of Representatives whether the President of the United States, heads of Departments, and Treasurer, have been in the habit of keeping their private accounts in the Branch Bank of the United States in the City of Washington; and at what time did they, or either of them, cease to keep their accounts in said branch bank—

Mr. BEATY said he could assure the honorable member from Tennessee that, when he had offered his amendment, it was not from any unkind feeling towards the persons who were named in it, but it was solely owing to a rumor, which was in general circulation and belief, that although the President and the heads of the Departments were in the habit of denouncing the bank as an unsafe depository for the funds of the public, yet that they had not hesitated to place their own private funds in the Branch Bank of the United States here, and which they had hesitated to place in the District bank chosen for the custody of the public deposites; thus evincing, for so much, their real opinion as to the general safety of one institution, in preference to that of the other, for this purpose. Under such circumstances, then, he had hoped that the honorable member from Tennessee would, instead of throwing obstacles in the way, have rejoiced at the opportunity presented to him; and, by aiding him in the inquiry as to these facts, have, on the one hand, placed the subject in a proper point of view, by disproof of the rumor, or, on the other hand, the country would, as he contended that they ought, be informed that the President had erroneously made charges against the credit of that institution. They were disproved by the fact that he had lodged his own funds there for safe keeping, when he would not place there the money of the public. However, be that as it may, his friend, the member from Tennessee, in making his comment on the proposition for this inquiry, was pleased to remark, that as he himself was willing to go the whole hog for inquiry, so the honorable member expressed his hope that he, (Mr. B.) coming from a whole-hog State, would not refuse to have the inquiry of that character. He was ready to admit the charge of coming from a State where many whole hogs were raised, and good ones, too; and, further, that it was a State in which there were some shoats raised, and good ones, also.

Mr. POLK rose to say that he had not made the remark in any offensive sense, but simply in stating this, that he was willing to go the whole hog, to illustrate that he desired to have inquiry of an extended character.

Mr. BEATY resumed. He would receive the apology, and in return would express his views with precisely the same good feeling towards the honorable member. When interrupted, he was about to say, in reply to his observation, that as he said "he was willing to go the whole hog," he was bound to believe him; and, as a party man, he would admit that he must be therefore a whole-hog gentleman. But he could assure him, that although

it was not his good fortune, nor was it his design, to be what was termed a whole-hog political party man, upon any side, yet he would acknowledge that he would at any time prefer a dish of the good old meat of the animal so called, than banquet upon that dish upon which, for some time past, the administration gentry had been feasting, viz: old glory. However, as he had no desire to embarrass the passage of the resolution submitted by the honorable member from Massachusetts, [Mr. Adams,] or the amendment proposed by the honorable member from Tennessee, [Mr. Polk,] and considering, on reflection, that it was matter of very little importance to the public where the President or the heads of Departments kept their funds, he would withdraw the amendment calling for the information to that effect. Mr. B. withdrew the amendment accordingly.

Mr. SPEIGHT having called for the reading of the resolution and proposed amendment, they were read accordingly. After which,

Mr. J. Q. ADAMS rose to express his sincere hope, as the amendment proposed by the honorable member from Kentucky had been withdrawn, that the member from Tennessee [Mr. Polk] would also withdraw that proposed by him, and that he would thus suffer the resolution, as it had been submitted by him, for an inquiry into the actual state and condition of these deposite banks, to pass without further opposition. This was desired by him, because it was most important for the House to have the information to assist them in coming to a proper understanding upon the bill before them, to regulate the terms upon which these deposites were to be held by the State banks. He asked this with some confidence, believing that the honorable member would concede so much, if from no other motive than that of courtesy to the House, and because the honorable member knew that, if he desired to have the information which he, in submitting the amendment, appeared to be desirous of having, he could have it by making a distinct proposition therefor to the House. He (Mr. A.) said he knew that the honorable member could have such a proposition readily passed, because the House had already granted, at his instance, an inquiry much more extensive than that which he had proposed by his present amendment to make into the condition of the Bank of the United States: the House having evinced their readiness not to refuse their aid for such inquiry by an unusually large majority. It was therefore, he contended, perfectly in his power to attain all the information which he desired, in another shape, without its being necessary to persist in the amendment proposed by him, and which could have no other effect than that of clogging, if not absolutely preventing, the passage of the resolution which he (Mr. A.) had submitted as to the State banks: for it was one altogether of a different character, having no sort of similitude to that proposed by him. His resolution had no reference, as the honorable member's had, to the private affairs of any individual, but solely applied to the management of the State banks. His object was not to make any other inquiry. It was, as he had formerly stated, simply to ascertain what capitals these institutions really had, or whether they had any. Whether, in a word, the condition of such institutions as were to have the custody of the public treasure, was such as, being without funds and trading upon borrowed capital, placed them in that situation which they, in language from high authority, had heard ought to be the doom of such: "that they ought to break." They had before now heard, that the best possible way to get rid of some disagreeable subjects, was by clogging them with amendments of a character so foreign to the original propositions to which they should be appended, that the movers themselves must be induced to vote against them. This he acknowledged must be the effect upon him, if the honorable member should not withdraw the amendment. He could not vote for it, because there was an examination proposed in it of a character very different and much more extensive than he had proposed to make into the State banks; and there was a further reason why he could not vote for it, which was, that he considered that was asked for which he did not believe that the House had any right to demand. And it was from this very line of conduct, adopted by the House on a former occasion, that all their difficulties arose in relation to the bank. On that occasion, a resolution was proposed to the House to make inquiries of a nature which they had no right to make. Well, what was the result? Why, they adopted the resolution, and sent on their committee to Philadelphia to carry it into effect. When that committee went on there, they followed the example of the gentleman from Tennessee on the present occasion, and extended their inquiries beyond the limits fixed by the House, and into matters still more out of their proper province, and then what were the consequences? Were they not such as might fairly have been expected to ensue? Their right to make them was denied. They were refused. They came back, and from this took upon themselves to report that the bank had violated its charter, not on those grounds of violation into which they were sent to inquire, but because the bank had refused, and properly refused, to answer such inquiries as they had assumed the right to demand. The gentlemen were sent to get information as to alleged violations of the charter. They got no information at all, for the reason he had stated; and then they came back to those who sent them, breathing vengeance, talking of violations of the charter by the bank, of contempt committed by it to the authority of the House, for which they must be brought to condign punishment. And, as a means to inflict it, they forthwith report a series of resolutions, that the president and directors should be brought to the bar of the House to answer for the same. What else resulted from this? The conduct of the bank was, to be sure, a contempt, a high contempt in the imagination of the committee, of the privileges of the House; and yet, notwithstanding all this, eager as these gentlemen of the committee were so to deem it, he had not seen that they were quite so anxious to bring up the subject, that, if what they had alleged was a contempt, the indignation of the House might fall upon those whom they had described so forcibly as having incurred it.

But has not this been the honorable member's course for some time past? Has he not been for years coming to the House, asking them to adopt his resolutions for inquiry, without solid foundation, or any good reason to demand them? He has, in fact, been groping, groping, groping in the dark for wherewithal to rest charges against friends of his own, against members of his own political party, against members of Congress voting along with him; and, after all this, what has he found? What ground was there, he asked, upon which even for suspicion to rest, or upon which he could build charges of corruption against either the president and directors of the bank, or those members of Congress, whose motives he had so often assailed? But it appeared that the honorable member was not even satisfied with demanding information as to these. He was disposed to extend his inquiries into the private affairs of the members of the judiciary. Ay, if it could really be credited, to the judiciary! Would it not appear to the House, the honorable member really had enough of this, and that it was time there should be some end to it? But, if he was not disposed to put some limits to this inquisitorial conduct into the private affairs and private correspondence of honorable men, perhaps he had better send his committee of inquiry at once to ransack the private correspondence had with the inmates of a certain White House between the Capitol and Georgetown; there, possibly, to find some-

thing to substantiate the charge made against those members of Congress who, being opposed to the bank, and must necessarily be, as they undoubtedly were, friends and supporters of the administration, but who were yet, nevertheless, stigmatized in that quarter as men that were ready to be bribed by the bank, &c.

Such a course seemed to him as just as the one he now proposed to adopt. It was as just to go after this private correspondence with his own friends—with those whose oily palms were described to be as ready to receive the wages of corruption as the president of the Bank of the United States was alleged to have been ready to give them. There was a proper field for him to seek the satisfaction of all his suspicions, if not his hopes: for, as the charge there had been made, he was bound to presume that there, also, would be found evidence to sustain it.

Mr. A. hoped, however, the honorable member would not further oppose propositions which, under the circumstances the country was placed in, he thought should be adopted in the form that had been submitted. He acknowledged that it was with much gratification he observed some of the friends of the honorable member come forward with manliness to avow that they themselves would not object to the inquiry which he had proposed to make into the condition of these deposite banks, but that they had felt it was a proper subject of "congratulation that no opposition to it was to be found on the part of the friends of the administration." But it seemed that those honorable members were mistaken: for, hardly had the words fallen from their lips, when the proposition before the House was made by the honorable member himself, which was intended to defeat the object of the resolution. However, as there was not time left now to procure the information before the adjournment of Congress, and before which it was necessary to have it, he trusted that the amendment, if not withdrawn, would be rejected by the House.

Mr. POLK had not expected, he said, when he came to the House this morning, that it would be necessary for him to engage in a further discussion of the subject before them; but as the honorable member from Massachusetts had revived the discussion of a former day, and had been pleased to indulge in a course of remarks not very pertinent to the immediate question before the House, he must advert to such of them as seemed to require from him some notice. The gentleman repeats the request which he had made when this resolution was last under consideration, a few days past, that he (Mr. P.) would withdraw the amendment which he had had the honor to propose. Mr. P. begged, in the outset of what he had to say, to state that it was not his intention to withdraw the amendment.

The honorable member, by his resolution, proposes to call upon the Secretary of the Treasury for certain information relating to the State banks which had become the depositories of the public money. He states his object to be to ascertain the condition of these banks, and more especially the state of the private accounts, and indebtedness of their respective presidents and boards of directors, and to learn also the names of those persons who were employed as their lawyers and solicitors—with the view, as he states, to enable himself and others to determine whether these banks are safe depositories of the public money. The object of the amendment was to make the inquiry broad enough to embrace a call for similar information as regards the Bank of the United States; to extend a similar inquiry into the state of the accounts of the president and directors of that bank also; and to ascertain the names of the lawyers and solicitors of the Bank of the United States, and their indebtedness to that bank. To this the gentleman objects, and insists that it is proper the amendment should be withdrawn. The Government had still in the vaults of the Bank of the United States some two or three millions of public deposites, which had not yet been withdrawn from it. The United States was, moreover, the holder of one-fifth (seven millions,) of its stock. Was it unreasonable, then, if such an inquiry as was proposed to be made was deemed necessary as regarded the State banks, to extend the same or a similar inquiry into the affairs of a bank in which the people of the United States had so great a stake? Inquiry into its condition, in this respect, was the more peculiarly demanded, when the antagonist position which it had assumed towards the Government was considered. What had been its conduct towards the Executive, and towards this House? Had it not, in its official acts, and through its friends and advocates here and elsewhere, openly denounced the chief Executive Magistrate as a tyrant, a usurper, and a despot—as every thing but a patriot and an honest man? Had it not, by itself and its friends, advocates and presses, in the progress of the present session of Congress, called upon this House to join in the hue and cry against the Executive, for an alleged usurpation of power? When this call was made, the bank and its supporters and advocates conceded that the institution was responsible for its acts to Congress, and the full power of Congress over the whole subject was admitted. The House had proved to be refractory, and, by its votes, had sustained the Executive, and in effect declared that the charge of *usurpation*, tyranny, and despotism, against the President, was *senseless* as well as *false clamor*, and wholly unfounded; and no sooner was this done than the bank and its friends had come out in bitter denunciations against the popular branch of Congress. Yes, sir, this House, the immediate representatives of the people, the true reflectors (when its members truly represent their constituents) of the popular will, had, since the return of the committee of investigation from Philadelphia, as he would presently show, been denounced, with the President, as usurpers of powers which did not belong to them. Were we to endure all this from an institution whose strides for power were not only rapid but arrogant, and yet be told that we had no right to exercise a power, expressly reserved to us by the charter, of examining into the mal-practices or corrupt conduct of its managers, or looking into its condition? But, according to the gentleman, this immaculate and inoffensive Bank of the United States must not be looked into, though the affairs of the State banks must be thoroughly probed. Again, he thought it more peculiarly proper to carry the inquiry into the concerns of the United States Bank, because a committee of the House, appointed to investigate its affairs, by a vote of 170 members, had gone to Philadelphia with the very inquiries which were now proposed to be made into the State banks, and had been insultingly repulsed.

The House, through its committee, had called for the very information which the gentleman now seeks from the State deposite banks; and yet, what was the reply of the Bank of the United States? When the committee of this House called, among other things, for the names of the lawyers and solicitors employed by it, and their indebtedness to the bank, did the bank furnish the information? Did they determine to comply with the call of Congress through its committee? No. They reply, by their official organ, that Congress was not authorized to demand it. That a committee, sent to the bank by Congress for that purpose, had no power to call for such information. Would this be denied? If it was so, then he held in his hands the proof.

[Here Mr. P. read from the documents appended to the report of the committee of investigation the following resolution, adopted by them whilst at Philadelphia, viz.

"*Resolved*, That the president, directors, and compa-

ny of the Bank of the United States be requested to furnish this committee with the particular items, and the aggregate of all fees and compensation paid during each year to attorneys, counsellors, or lawyers, since the establishment of the bank; stating the amount paid to each person employed, together with their residence; the times when the payments were made, and the particular services rendered for each charge paid; also, whether the same has been paid at the parent bank or branches, and at which, designating them; also, of all sums paid as a general or annual fee or salary to counsellors for the bank, specifying the names of such persons, the amounts, and times, and places of payment; and, also, whether such sums were paid by the order, in each case, of the board of directors, or how otherwise paid; designating such sums as have been paid in cash, and such as may have been passed to the credit of such persons or others, in payment of any debt or debts due to said bank."]

And what (said Mr. P.) was the reply of the bank to this and other calls made upon them by the committee for information? Why, that "the board do not feel themselves at liberty to comply with the requirements of the resolutions of the committee of investigation," &c. He would, he said, read a part of the bank's reply. It was as follows, viz:

"Bank of the United States, *May* 3, 1834.

"At a special meeting of the board, held this day, the following resolution was, on motion, unanimously adopted:

"*Resolved*, That the board do not feel themselves at liberty to comply with the requirement of the resolutions of the committee of investigation of the 29th ultimo and 1st instant, and do not think they are bound to do so, inasmuch as, in respect to a part of the papers called for, the effect would be the same as the surrender of their books and papers to a secret and *ex parte* examination, which they have already refused to consent to."

Under such circumstances, he could not conceive that he was violating any rule of order or propriety, in insisting that, if the inquiry proposed by the gentleman from Massachusetts was to be made, that it was equally due to the country and to Congress to have such examination made also into the affairs and management of an institution in which the Government had not only a large interest, in addition to the deposites still remaining with it, but which had resisted the authority of the House, and was bidding them defiance.

He considered it most unreasonable to be asked to withdraw the amendment calling for it. He should hope it would be deemed much more reasonable for him to ask the honorable member from Massachusetts to modify his resolution by inserting, along with the State banks, that of the United States Bank.

He hoped that he would not be told, in objection to the call proposed by his amendment, that it was useless for him to press it, because the president and directors had already refused the same information when demanded by the committee; and that, therefore, they would refuse that demanded by his amendment. This was not a sufficient answer, although it was not to be denied that, from their previous conduct, such might be the result. Should it be so, he desired the House should know it. He admitted that it had so arrogantly set itself up to determine the whole public policy, dictate whether any or what powers properly belonged to the Executive departments and to Congress, that he knew not where it might be said that its claims were to terminate.

Mr. P. said he had stated that though the bank, through its organs and advocates, at the early periods of the present session of Congress, when we were appealed to to join in damning and putting down the chief Executive Magistrate, had lavished unmeasured praises upon us, had conceded to us the power which this House afterwards exercised, and had professed a willingness to yield obedience to our decision upon the great question which has occupied so much of our time, that yet when this House had condemned the bank, and sustained the President, we had shared in its denunciations. This he happened to have it in his power very briefly to show. A paper had this moment been handed to him by a gentleman near him, which he had read some days ago. That paper (the National Gazette) contained an article purporting to be editorial, but which bore on its face evidence that it was the semi-official, indeed it might be regarded as the official expose, issuing from the bank itself—because it contained an extract of what purported to be a private letter, addressed by a private citizen to the bank, and which could have been procured from no other source but the bank itself. From that expose he begged to read a paragraph or two, to show its general tone, and particularly what was said of this House. He would only further state that it appears in the paper of the 3d of June, and after the report of the committee of investigation was made to this House. Mr. P. here read from the expose as follows, viz:

"The House, it cannot be dissembled, has lost much of the confidence of the country, and has lost it by inattention to its own character. They have been much too servile—have permitted themselves to be the dupes of political jugglers. It is a fact perfectly notorious that a very large portion of the House, outside of the bar, acknowledge the improper conduct of the Executive, yet step forward a few feet and vote to support the very measures they disapprove. The House ought to be ashamed of such conduct; there are really many honest and well-meaning men in that body, and they ought to revolt at the humiliation to which the kitchen cabinet subjects them. The present feeling of the country towards the House is one of surprise and pity. Surprise, that a popular body should seem so indifferent to popular rights; and pity, that it should suffer the control of these political jugglers. If, hereafter, that body should be despised, it will only be because it has made itself despicable. If it be treated with contempt, it will be because it is contemptible."

Again, he said, this bank expose (for he held himself justified in supposing that it had the sanction of the bank, for garbled extracts of the private correspondence of the bank formed a part of it) held the following language, which he read, viz:

"The great contest now waging in this country is between its free institutions and the violence of a vulgar despotism. The Government is turned into a baneful faction, and the spirit of liberty contends against it throughout the country. On the one hand is this miserable cabal, with all the patronage of the Executive; on the other the yet unbroken mind and heart of the country, with the Senate and the bank; the House of Representatives, hitherto the instinctive champion of freedom, shaken by the intrigues of the kitchen, hesitates for a time, but cannot fail, before long, to break its own fetters first, and then those of the country. In that quarrel, we predict, they who administer the bank will shrink from no proper share which the country may assign to them; personally they must be as indifferent as any of their fellow-citizens to the recharter of the bank. But they will not suffer themselves, nor the institution intrusted to them, to be the instrument of private wrong and public outrage; nor will they omit any effort to rescue the institutions of the country from being trodden under foot by a faction of interlopers."

In the same paper the inquiries made by the committee of investigation are denounced as a "mass of arrogance," because they had called for certain correspondence with the bank, which the bank refused to furnish.

The bank, he said, in this paper, which was evidently prepared under its own direction, defied and insulted the House of Representatives. After setting itself up in opposition to the Government, assuming to construe the powers of the Executive, and to dispute what authority he should and should not exercise, it now abuses and denounces this House.

Mr. J. Q. ADAMS here interrupted Mr. POLK, and called on the member from Tennessee to state the evidence upon which he made these charges.

Mr. POLK held it in his hand. It is, as he had already stated, what purports to be editorial, but comes to the public under the sanction of the bank; if it was not written, as he believed it was, by the direction of the bank itself. The paper furnishes intrinsic evidence of its authorship; for it contains a letter which could not have been procured but from the bank. Yes, sir, the bank, which was so scrupulous in regard to private correspondence, has not hesitated to avail itself of a private letter, with a view to assail members of this House.

Mr. ADAMS begged to know what proof he had of this?

Mr. POLK. The proof is on the face of it: it bears internal evidence that it must have come from the bank. He found in it, as he had already stated, an extract of a letter addressed to the bank by a private citizen, and which could not find its way into this, the bank's known organ in Philadelphia, (the National Gazette,) without the knowledge or connivance of the bank, or, indeed, without having been furnished by the bank. This is a private letter addressed to the bank by a private individual on his private affairs; and we thus, notwithstanding the bank's objection to disclose to a committee of the House, when called upon for that purpose, the correspondence called for touching its "fair business transactions," nevertheless does not hesitate to blazon forth, under such circumstances, a garbled extract of what should, by its professions, be held sacred, for the base purpose, he must conclude, of blasting the character or affecting the reputation of a member of the committee. He would now read on, to show the character of this immaculate institution.

[Mr. P. here read some other extracts.]

After he had concluded,

Mr. J. Q. ADAMS rose to remark that, as the member from Tennessee had spoken of a letter to the bank in the article, he would therefore now be so good as to read it.

Mr. POLK declined, saying, "the gentleman can have it, and read it for himself, if he desires to do so."

Mr. J. Q. ADAMS. The honorable member stated that his authority for making this charge was proved by a fact in the paper he read. This fact was in a letter to the bank. I ask him to read its contents.

Mr. POLK could not feel that he was called upon by any rule of courtesy or propriety to read, for the amusement or edification of the gentleman, any thing which did not pertain to his argument. The gentleman can read the letter himself, if he pleases. I choose to proceed with my remarks, in proper temper, I hope, having read enough of this bank bulletin. Right or wrong, sir, continued Mr. P., whatever the bank does, the board of directors assert the legal right to do what has been done. As an answer to my objection to the course of the bank, it is said that the board of directors approve it.

Mr. J. Q. ADAMS. Oh! pray read on.

Mr. POLK said he would proceed with his remarks. He had read thus much to show the arrogance of its tone, and that all who did not fall down and worship this aristocracy of money fell under its anathemas and denunciations.

The bank, then, had refused to answer the calls for information made by this House through its committee; but he supposed that a full answer would be found in an extraordinary ground of defence for the malconduct of the bank, to be seen in another document, (the report of the minority of the Committee of Ways and Means on the deposite question, at the present session,) viz: "In relation to all the operations of the bank included under the first head, it must be answered that, whether the bank has been right or wrong, her board of directors assert the legal right to do whatever has been done."

There, indeed, it was openly asserted that the directors had full right to refuse compliance with what the House had so solemnly resolved they deemed necessary to have to aid them in their legislative duties.

Mr. P., after commenting with severity on the general conduct of the bank, concluded by asserting that he had no possible objection to any inquiry that could be instituted, to ascertain the condition of the State banks; but, if the present resolution was adopted, he felt it necessary to insist upon having the other inquiry into the United States Bank along with it. He could not think of voting for a scrutiny of this character into the State banks, who had already voluntarily answered every call made upon them by the Secretary of the Treasury fully; and were, he doubted not, willing to answer any call which Congress might choose to make; and yet not extend the same call to that bank, which had, in refusing the same information to a committee, put at defiance the authority of the House, and put at naught its power. He wished to see whether it would again refuse to answer the call, when a similar one was made, by its friends upon this floor, upon the State banks. He did not wish to evade the investigation into the concerns of the local banks, but he wished also to carry it into the affairs of the Bank of the United States —an institution which some regard as the sole agent of the Government. The bank issues its bulletin, and declares that you have no power; that they stand above your reach; and you are now requested modestly to decline asking the bank any more questions. He shrunk from no scrutiny into the affairs of the local banks, and had no objection to the object of the resolution of the gentleman from Massachusetts.

The resolution was further debated by Mr. WAYNE, but before he had concluded the hour devoted to morning business expired.

Mr. CLAY called for the order of the day.

Mr. MILLER thereupon rose and moved a suspension of the rule, to enable the House to dispose of the resolution.

The House having refused to suspend the rule, the subject stands over.

OHIO BOUNDARY.

The bill to fix the northern boundary of the State of Ohio coming up as the unfinished business—

Mr. POLK moved that its consideration should be postponed until to-morrow; but subsequently withdrew this motion at the suggestion of

Mr. VINTON, who said that he believed that the questions pending on that bill would be disposed of without debate.

Mr. LYON, of Michigan, said he had now no objection to comply with the former proposition made by the member from Ohio, [Mr. VANCE,] to refer the subject to a select committee.

Mr. ALLEN, of Ohio, remarked that, as his only objection to this course arose from his fear that delay would prejudice the passage of the bill at this session, he should rather have it postponed until Thursday week, and have it made the special order for that day.

The question on the motion to this effect, which was pending from the former day, was then put and negatived.

The motion to commit the subject to a select committee, to consist of seven members, was agreed to.

REMOVAL OF THE DEPOSITES.

The following joint resolution from the Senate coming up in its order:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the reasons communicated by the Secretary of the Treasury in his report to Congress of the 4th of December, 1833, for the removal of the deposites of the money of the United States from the Bank of the United States and its branches, are insufficient and unsatisfactory.

Mr. POLK rose and moved that it be laid on the table.

Mr. WHITTLESEY, under the impression that the object of the honorable member in submitting this motion was for the purpose of proceeding with the appropriation bills, suggested that that object could be effected by the joint resolution being simply laid aside and taken up in its turn.

Mr. POLK persisted with his motion to lay the resolution on the table.

Mr. EVANS called for the reading. It was read accordingly; after which,

Mr. CROCKETT rose and asked a call of the House. He proceeded to say that his colleague [Mr. POLK] had been dodging around this question all the session, and now he asked that it be laid on the table. I had a hope, said Mr. C., that we had a chance to meet the question fairly, and let members stand up to the rack and say to their constituents, that we have supported the laws and constitution. This question is to test that fact, and I hope to meet it upon its merits, and say to the country, by our votes, whether we have a Government or not. Mr. C. was called to order so repeatedly that we could not hear distinctly what he said, as it was not a debatable case. Mr. C. concluded by asking for the yeas and nays on the call, which were ordered; and the roll having been gone through, 211 members answered to their names; and excuses having been made for some of the absent members—

Mr. CROCKETT moved that the Sergeant-at-arms should be despatched to bring up those members for whom excuses had not been made.

Mr. ANTHONY, however, opposed this motion, and having moved a suspension of further proceedings on the call,

Mr. HIESTER called for the yeas and nays, which having been ordered,

Mr. CROCKETT suggested the propriety of sending messengers to the absentees, whilst the yeas and nays on this latter motion were being taken.

The House finally suspended further proceedings on the call: Yeas 107, nays 76.

The question being on the motion of Mr. POLK—

Mr. WARREN R. DAVIS rose to ask the honorable member from Tennessee, [Mr. POLK,] whether the object of his motion was to dispose of this subject finally, or merely to have it laid on the table for the present?

Mr. POLK declined answering. The question before the House was not, he presumed, debatable; and it was for the House to say what the final disposition of the resolution should be.

After a remark from Mr. FELDER—

Mr. CHILTON said he rose to propound an inquiry to the honorable member.

Mr. POLK said he must object to this; and rose to a question of order, whether it was in order to propound inquiries on a question not debatable?

The SPEAKER intimated that, although the question was not debatable, the honorable member had a right to propound an inquiry simply.

Mr. CHILTON then made a few remarks; upon which,

Mr. POLK rose in objection, and made a point of order thereon; upon which,

Mr. DENNY rose, not, he said, to propound an inquiry to the honorable member from Tennessee, who appeared so sensitive, but to ask the Speaker whether, if a majority should now decide to lay the subject on the table, it was competent, during the rest of the session, for a majority to take it up again?

The SPEAKER replying in the affirmative—

The question on the motion was then put, and decided as follows:

YEAS—Messrs. John Adams, William Allen, Anthony, Bean, Beardsley, Beaumont, Blair, Bockee, Bodle, Boon, Bouldin, Brown, Bunch, Burns, Bynum, Cambreleng, Carmichael, Carr, Casey, Chaney, Chinn, S. Clark, Clay, Coffee, Connor, Cramer, Day, Dickerson, Dickinson, Dunlap, Forester, Fowler, William K. Fuller, Gillet, Gilmer, Joseph Hall, Halsey, Hamer, J. M. Harper, Harrison, Hathaway, Hawkins, Hawes, Henderson, Howell, Hubbard, Abel Huntington, Inge, Jarvis, Richard M. Johnson, N. Johnson, Cave Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, Kinnard, Lane, Lansing, Laporte, Lea, Lee, Leavitt, Loyall, Lyon, Lytle, Abijah Mann, J. K. Mann, Mardis, Moses Mason, McIntire, McKay, McKim, McKinley, McLene, McVean, Miller, Henry Mitchell, Robert Mitchell, Muhlenberg, Murphy, Osgood, Page, Parks, Parker, Patton, Patterson, D. J. Pearce, F. Pierce, Pierson, Plummer, Polk, Pope, Schenck, Schley, Shinn, Charles Slade, Smith, Speight, Standefer, Stoddert, Sutherland, William Taylor, Francis Thomas, Thomson, Turrill, Vanderpoel, Van Houten, Wagener, Ward, Wardwell, Wayne, Webster, Whallon, C. P. White—114.

NAYS—Messrs. John Q. Adams, Heman Allen, John J. Allen, C. Allan, Archer, Ashley, Banks, Barber, Barnitz, Barringer, Baylies, Beaty, James M. Bell, Binney, Briggs, Bull, Burd, Burges, Cage, Campbell, Chambers, Chilton, Choate, William Clark, Clayton, Clowney, Corwin, Coulter, Crockett, Darlington, Warren R. Davis, Deberry, Deming, Denny, Dickson, Duncan, Evans, Edward Everett, Horace Everett, Ewing, Felder, Fillmore, Foster, P. C. Fuller, Fulton, Gamble, Garland, Gholson, Gordon, Gorham, Graham, Grayson, Grennell, Griffin, Hiland Hall, Hard, Hardin, James Harper, Hazeltine, Heath, Hiester, Jabez W. Huntington, Jackson, W. C. Johnson, Lay, Lewis, Lincoln, Love, Martindale, Marshall, McCarty, McComas, McKennan, Mercer, Milligan, Moore, Pinckney, Potts, Ramsay, Reed, Rencher, Selden, Aug. H. Shepperd, William Slade, Sloane, Spangler, Steele, Stewart, P. Thomas, Tompkins, Turner, Tweedy, Vance, Vinton, E. D. White, Fred. Whittlesey, Elisha Whittlesey, Williams, Wilson, Wise, Young—101.

So the said joint resolution was ordered to lie on the table.

RESTORATION OF THE DEPOSITES.

The following joint resolution from the Senate then coming up, viz:

Resolved, That all deposites of the money of the United States which may accrue or be received on and after the 1st day of July, 1834, shall be made with the Bank of the United States and its branches, in conformity with the provisions of the act entitled "An act to incorporate the subscribers to the Bank of the United States," approved the 10th April, 1816—

Mr. POLK moved that this resolution also should be laid on the table.

Mr. CHILTON called for the yeas and nays; which having been ordered—

The question upon the motion to lay it on the table was then put, and decided as follows—118 to 98:

YEAS.—Messrs. John Adams, William Allen, Anthony, Bean, Beardsley, Beaumont, Blair, Bockee, Bodle, Boon, Bouldin, Brown, Bunch, Burns, Bynum, Cambreleng, Carmichael, Carr, Casey, Chaney, Chinn, Samuel Clark, Clay, Coffee, Connor, Coulter, Cramer, Day, Phi-

lemon Dickerson, David W. Dickinson, Dunlap, Felder, Forester, Fowler, W. K. Fuller, Gholson, Gillet, Gilmer, Joseph Hall, Halsey, Hamer, Joseph M. Harper, Harrison, Hathaway, Hawkins, Hawes, Henderson, Howell, Hubbard, Abel Huntington, Inge, Jarvis, Richard M. Johnson, Noadiah Johnson, Cave Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, Kinnard, Lane, Lansing, Laporte, Luke Lea, Thos. Lee, Leavitt, Loyal, Lyon, Lytle, Abijah Mann, Joel K. Mann, Mardis, Moses Mason, McIntire, McKay, McKim, McKinley, McLene, McVean, Miller, Henry Mitchell, Robert Mitchell, Muhlenberg, Murphy, Osgood, Page, Parks, Parker, Patton, Patterson, Dutee J. Pearce, Peyton, Franklin Pierce, Pierson, Plummer, Polk, Pope, Schenck, Schley, Shinn, Charles Slade, Smith, Speight, Standefer, Stoddert, Sutherland, William Taylor, Francis Thomas, Thomson, Turrill, Vanderpoel, Van Houten, Wagener, Ward, Wardwell, Wayne, Webster, Whallon, Campbell P. White—118.

NAYS.—Messrs. John Quincy Adams, Heman Allen, John J. Allen, C. Allan, Archer, Ashley, Banks, Barber, Barnitz, Barringer, Baylies, Beaty, James M. Bell, Binney, Briggs, Bull, Burd, Burges, Cage, Campbell, Chambers, Chilton, Choate, Wm. Clark, Clayton, Clowney, Corwin, Crane, Crockett, Darlington, Warren R. Davis, Deberry, Denny, Dickson, Duncan, Evans, Edward Everett, Horace Everett, Ewing, Fillmore, Foster, Philo C. Fuller, Fulton, Gamble, Garland, Gordon, Gorham, Graham, Grayson, Grennell, Griffin, Hiland Hall, Hard, Hardin, James Harper, Hazeltine, Heath, Hiester, Jabez W. Huntington, Jackson, William Cost Johnson, King, Lay, Lewis, Lincoln, Love, Martindale, Marshall, McCarty, McComas, McKennan, Mercer, Milligan, Moore, Pinckney, Potts, Ramsay, Reed, Rencher, Selden, Augustine H. Shepperd, William Slade, Sloane, Spangler, Steele, Stewart, Philemon Thomas, Tompkins, Turner, Tweedy, Vance, Vinton, Edward D. White, Frederick Whittlesey, Elisha Whittlesey, Williams, Wise, Young—98.

So this resolution was also ordered to lie upon the table.

PRE-EMPTION--ACTUAL SETTLERS.

The bill to revive the act entitled "An act to grant pre-emption rights to settlers on the public lands," approved May 20, 1830, being again taken up—

Mr. VINTON opposed the bill. He observed that the Government had extinguished the Indian title to large bodies of land, and had paid for Indian improvements thereon great sums of money, averaging, probably, not less than 15 dollars per acre, (some had been appraised at 30 dollars, and some at 2 or 3 dollars,) and now it was asked that the United States should part with these lands at $1 25 an acre. If any bill of this sort was ever permitted to pass, it ought to be accompanied with guards of the strongest kind to prevent abuses. As matters now stood, any man might go on these lands, and whoever was so fortunate as once to obtain possession, even though it should be a tract with improvements appraised at 30 dollars an acre, could get the whole at $1 25. With a view to test the sense of the House upon the bill, he should move to strike out the enacting clause. If that motion should fail of success, he should then move that the bill be recommitted, with instructions to have the amount confirmed to each occupant restricted to forty acres. Then there would be some correspondence between the provisions of the bill and the reasons advanced in its support. Let the privilege of the settler be confined to the land he has actually settled, and also to lands brought into market. This would remove the most serious objections to the bill. At present it might be denominated a bill to aid and abet the designs of speculators.

He moved to amend the bill by striking out the enacting clause.

Mr. CLAY, of Alabama, after a promise of brevity, proceeded first to remark on the letter from Mr. Graham, late Commissioner of the General Land Office, to which Mr. VINTON had referred, and which he insisted had reference to a bill somewhat like the present, but in a different shape. The bill, as now reported, was free from all important objections. He denied that its operation would be to introduce again the credit system, and quoted the law to prove the assertion.

Mr. VINTON said the settler was to be allowed two years to make his payment for the land: was not this a system of credit?

Mr. CLAY referred to the fourth section of the pre-emption law of 1829 and 1830, by which it was expressly provided that the bill should work no delay in the sale of the land. If the settler did not avail himself of his pre-emption right before the President should advertise the land for sale, he lost his right; and the President might do so at any time. The law he had quoted expressly contradicted the objection, too, in reference to the lead mines. Those lands were reserved from sale; and the pre-emption law did not extend to lands reserved. The letter, therefore, which the gentleman had read, did not even raise an argument against this bill. It had been read when the former bill was under consideration, and had no effect to prevent its passage. So had the letter of Mr. Currie. It had at that time been stated to the House, openly, that this Mr. Currie was a land speculator, whose interest it obviously was to obstruct, and if possible prevent, the passage of the bill. As to the other objection, it had reference only to a certain district of Alabama; and were all the occupants of these lands to be deprived of their little cabins, and driven from the homes they had earned, because certain disorderly individuals had resisted the law in four or five townships of one State? The gentleman had suggested that these lands would bring into the treasury a million of dollars; and yet the rich cotton lands in the counties of Perry and Greene had brought but a trifle over the minimum price. This was easily explained. Capitalists flocked to every land sale, and, by mutual agreement, obtained the lands at the Government price, or very little above it; and, as soon as they had the title, turned round and levied 100 per cent. upon the poor settler who had gone into the wilderness and subdued it. All gentlemen from the Alabamas, Mississippi, and Florida, knew this to be so.

In reply to Mr. V.'s arguments, that pre-emption laws retarded the sales of the public lands, Mr. C. referred to returns, which he read, and from which it appeared that, immediately after the passage of the last pre-emption law, the amount of sales had risen rapidly, and in an unprecedented degree. Under the auction system the lands in Indiana had brought but one mill over the Government price; in Illinois, six mills; and in Missouri, five mills. This had been the state of things in 1826, '7, and '8, before the pre-emption bill had passed. The gentleman had spoken about cotton lands being worth ten to fifteen dollars an acre; and yet, in sales which embraced three millions of acres of such cotton lands, the price realized was only one dollar and twenty-seven cents, out of which was to be taken all the expenses of the sale. Now, he would ask every gentleman to put it to his conscience to say, whether such a petty advantage as the difference to this nation between one dollar and twenty-five cents and one dollar and twenty-seven cents per acre was a sufficient inducement to suffer the actual settler, whose improvements have earned him a home and given value to the soil, to be thrown upon the tender mercies of the land speculators? Was any gentleman prepared to say this? Yet this was the class of persons for whose benefit this bill was intended. The man who wanted a lot of eighty or one hundred acres of land was not to be presumed a rich man, but, on the contrary, a poor man, whose object was,

by labor, to earn himself a comfortable little farm, on which to support his family and rear his children.

Mr. WHITE, of Florida, said that this bill was interesting to all the new States and Territories in which the United States held public lands, and to none more than to the Territory of Florida. The principle and policy of the bill was well understood, and had been fully and elaborately discussed in the year 1826, and repeatedly since. The House had been at least six or seven times favored with the same speech of the gentleman from Ohio, [Mr. Vinton,] with the exception of some novelties introduced, doubtless, in odium upon the settlers and occupants for whose benefit it was now proposed. What is the principle of this bill? It proposes to give to every poor occupant who has settled upon the public lands the right to purchase one quarter section, including his improvement, for the Government price, (one dollar and twenty-five cents the acre.) It extends the provisions of an expired law, and revives the right, conferred by Congress upon former occupants, on the same terms. The gentleman has never been able, in his often-repeated speech, to convince Congress that this policy is incorrect in principle or prejudicial to the public. Whether his threat to vote against certain internal improvements will deter gentlemen interested in them to vote against it, remains to be seen. But he could not persuade himself that such an argument, for such a purpose, could meet with the favorable consideration of an enlightened Legislature.

It has been shown that no pre-emption can be made of lands reserved for lead mines or for any other purpose. The act of 1830, which is the basis of the one under consideration, excludes these lands from this mode of sale.

The gentleman has caused a letter to be read, in relation to combinations to prevent some sales in Alabama, by some disappointed speculators, who could not extort from the honest and indignant settler a douceur or "hush-money," not to bid for his improvement. For what object was this introduced? *Cui bono?* Does this practice, right or wrong, refer to any provision of this bill? These were combinations to prevent the sale only to a confederated company! Now, sir, this bill is intended to prevent these very combinations complained of, by placing at the disposal of these worthy and excellent pioneers, who have penetrated the forest, made roads, and constructed bridges, and improved the country, giving a value to all the surrounding public lands, the right to purchase their little homes at the Government price, without the fear of speculators.

These settlers are stigmatized as "trespassers and squatters." He had said before, in this House, and now repeated, that there was no law of the United States forbidding settlements upon the public lands. Where is such a law to be found? Let the gentleman show it if he can. The act of 1807 forbade taking possession of lands under pretended titles; but there was in that law a provision by which the registers and receivers were authorized to grant permits of settlement. That act referred to the floating titles supposed to be held, or fabricated, after the Louisiana cession. It originated and expired with the settlement of the titles under that cession.

The truth is, that this law is intended to protect the poor against the rapacity and oppression of heartless speculators, who combine to force from them money, to prevent their bidding for their improvements. Against such a system, Mr. W. said, he always had and always would continue to protest.

Mr. McCARTY asked, what new settlers, of small means, were to do, should the bill be rejected? They could not purchase land in the old States, for there was none to sell; they could not purchase at second hand in the new States, for they could not pay for the improvements. They had no resource but to go upon the public lands, and there to labor, in the hope that, when these lands should come into market, they might be able to buy a little spot for themselves at the Government price. With a view to obviate one principal objection to the bill, he would, as soon as it should be in order to do so, offer an amendment, which, he believed, had the approbation of the chairman of the Land Committee, [Mr. Clay.] It was to add a proviso, that the person claiming the right of pre-emption should make oath that the land was for himself, and that he had made no secret or other agreement to transfer it to another.

Mr. CLAY said he had no objection to such a proviso, and hoped the House would permit it to be considered as a part of the bill.

Mr. LEWIS, of Alabama, said that, as this amendment might do away objections to the bill, he was entirely willing that it should be added. He observed that the portion of country he represented was deeply interested in the fate of this bill. He asked no boon; he solicited for his constituents no donation. All he asked or desired was, that they should enjoy the same advantages which had been extended to others, and which experience had proved to be most conducive to the public good. He did not ask any donation of land; he asked merely for protection against speculators; for protection against a system which had already cost the people of Alabama from two to four millions of dollars. What had been the practical operation of the auction system? A poor and industrious man had gone into the wilderness and made himself an improvement. The land speculator had gone after him, and surveyed his improvement; and, at the time of the sale, he attended, in company with his coadjutors, holding among them a vast capital, (Mr. L. had known as much as from two to three millions of dollars to be brought to one of these land sales,) and he determines to get this poor man's improvement. The poor settler had no means by which to compete with such odds; and his only resource was to compound with the speculator, and pay him four or five dollars an acre for what he might otherwise have got for one dollar and twenty-five cents. Was this a wholesome policy? The gentleman from Ohio [Mr. Vinton] had spoken of cotton lands being worth a large price. Mr. L. admitted their value; but, he asked, when was that value ever obtained by the Government? Whatever the land might bring to individuals, the United States never got but a trifle over the minimum price. What difference did it make to the Government that the laborious settler got the land, or that the greedy speculator got it? The Government received alike from both. And was it not better that the man who had labored for a home should possess it, than that the overgrown capitalist should get possession, and then extort upon his necessity? The plan was not new; it had been tried, and it worked well. As to the gentleman's objections, they were old acquaintances in that House. He had made, in substance, the same speech over and over again, and had again and again brought up this same letter of Mr. Graham's. The letter was not against the principle of pre-emption rights, but only against certain details of a bill to which it referred. The bill had, nevertheless, gone into a law, and had in practice been attended with none of the evils apprehended. It had not enabled any body to get reservations worth fifteen dollars an acre for one dollar and twenty-five cents. The reservations had been expressly excepted from the operation of the bill; a redundant revenue had immediately flowed into the treasury from the public lands; while the people had been protected from the hardship of paying tribute to speculators, to the tune of eight hundred thousand or a million of dollars. The Government had realized as good a price as when there had been no pre-emptions granted.

Mr. L said he knew the Mr. Currie whose letter had

been paraded before the House. He was a land speculator; one of those who valued these improvements of the poor industrious settler; and it was not in the least surprising that such a man should be strongly opposed to the bill. Its effect would be to defeat his plan of operations. Was this the language of a settler? No: it was the language of a speculator.

Mr. L. said that he was not opposed to the auction system, if it was confined to lands not improved or occupied; but, if applied to these, it subjected the settlers to a grievous oppression. The object of the bill was protection; all he asked or sought was protection; protection, not against the Government, but against the speculators.

Mr. POLK regretted the length of the discussion; and should have pressed for the consideration of the appropriation bills, had it not been for his unwillingness to interfere with a measure in which a large portion of the people beyond the mountains had so deep a concern, and which was the first Western measure which had yet been under discussion. The bill only revived the former law.

Here Mr. VINTON interposed, and reminded Mr. P. that it contained also a clause allowing claims which had been rejected by the Secretary of the Treasury. It contained a new principle, and embraced a new class of cases.

Mr. POLK resumed. In all the cases provided for by the bill, the settler was required to pay to the Government $1 25 an acre. The bill did not injure the Government, nor did it relate to the lead mines. The House, for six years past, had constantly heard this same speech from the same gentleman in opposition to the doctrine of pre-emption, and the House had always differed in opinion from that gentleman.— He trusted it would on the present occasion. The principle was plain and simple; so much so, that this bill had passed the Senate almost *sub silentio*. He trusted there would be no protracted discussion upon it.

Mr. H. EVERETT said he doubted the policy of bills of this description. The alleged necessity of passing this bill arose entirely from our former legislation. We had from time to time passed temporary bills, giving pre-emption rights to settlers, and by them encouraged persons to intrude on the public lands, under an expectation that future acts would be passed for their relief. Every argument in favor of the policy of this bill applied equally to a general law. If this bill is passed, in a year or two we shall be called upon to pass another and another. If this is to be done, why not at once throw open all the public lands for a general scramble, and abolish the auction system? But, he asked, is any one prepared for this? Why, then, are these partial temporary acts advocated? To him, it seemed that they gave a decided advantage to those in the vicinity of the public lands, and to the prejudice of those at a distance, and enabled them, from their proximity, to take up all the good lands. The terms of the act were vague. What shall be deemed a settlement within the act? The blazing a few trees; the raising a patch of potatoes? He did not know which construction had been given to former acts. He had supposed it to be loose and indefinite.

There was one view in which the settlers were, however, entitled to consideration, as connected with the land speculators. If settlers are to be encouraged to enter on the public lands without purchasing them, he would protect them against the speculators. But it seemed there were combinations of the settlers as well as of the land speculators; the one to defend their possessions, and to prevent, by force, persons from bidding on their lands; and the speculators, in turn, combine to prevent all competition; and the result was, that, between both combinations, the public lands were sold at a nominal advance only over the minimum price. He was not for throwing open the public land to a general scramble; though, rather than pass these temporary acts, he would pass a general law. Even to protect the Government against the combination, either of settlers or speculators, effectual laws should be passed. These temporary acts, he contended, were unjust to the distant States.

Mr. DUNCAN said he felt called upon by the opposition which had been made to the bill, to offer a few remarks in support of it. He hoped the gentleman from Ohio, [Mr. VINTON,] against whom so many fires had been directed, would pardon him for giving him, and his opposition to the bill, a passing notice. He had no objection to urge to the gentleman's course, which was uniformly to oppose every pre-emption and other bill tending to favor settlers on the public land, because he believed the gentleman was the representative of a very large land interest, called the Ohio Company, who owned, or had owned, most of his district. It was the interest of persons owning large tracts of land to oppose all settlements on the public land, in order to favor their own speculations. He did not doubt that the gentleman [Mr. VINTON] was truly representing the wishes of his constituents, as their interest was directly opposed, not only to the poor settler, but the sale of all other land except their own.

Mr. VINTON here interrupted Mr. DUNCAN, by saying the gentleman from Illinois was mistaken; his (Mr. V.'s) constituents were no speculators, and did not merit the personal allusions which had been made. The individuals composing the Ohio Company were men of high character; they were revolutionary soldiers. The million of acres of land they had once held, and which had nearly all been sold, was taken for debts due them from the United States; this land only composed one-half of his district; the other half was public land, situated exactly as that represented by the gentleman from Illinois. He disclaimed all such influence as had been charged upon him and his constituents.

Mr. DUNCAN replied that he made no personal or unkind allusion to the gentleman or his constituents; he only stated a fact, to show that the gentleman, though from one of the new States, represented an interest totally different from the great majority of those States. This Ohio Company had once owned a million of acres of land. He presumed, however honorable they might be, that they were like other men; and he did not doubt they looked to their own interest, which they could do justly and without reproach; and he hoped the gentleman would allow him to look also to the interest of his constituents. He said he represented a very different interest: his constituents were no speculators; those who settled on the public land were generally poor men, or men in moderate circumstances, who live by their honest labor, and had no other view in settling than to secure an independent home for their families. They were no trespassers. They had been encouraged to go on and improve the public lands by the repeated acts and settled policy of the Government—a policy well known to be as favorable to the sale of the lands and the public interest as it is just to the settler. It was owing to this wise policy of inducing the hardy sons of the West to encounter all the privations and hardships incident to such an enterprise, that the seven new States in this Union owe their unexampled prosperity. Who, he asked, ever heard of a wealthy man leaving ease, luxury, and society, and going into the forest, as our enterprising settlers had often done, at every sacrifice, encountering the wild beasts and savages, and depending for the first year or two upon the rifle for a precarious subsistence? He never knew an instance; and he believed if the vast valley of the Mississippi had never been settled until those able to purchase the land should become the pioneers, that it would not have reached its present state of improvement in a century to come. He considered it

the interest of the whole Union to adopt a liberal policy in disposing of the public domain. To build up great and prosperous communities, he said, was infinitely more important than all the gain that ever had or would be received into the treasury from the sale of these lands. But, he said, his friend from Alabama [Mr. Clay] had plainly shown that nothing had been gained for many years by selling the lands at auction; it had added nothing to the treasury, though it had sometimes been the means of oppression to the settlers. He said he considered the present as a question whether this Government is willing to sell the poor man's improvement to the highest bidder, and put the profits of his labor into the public treasury, which is now full to overflowing. He could not believe honorable gentlemen, understanding the subject, could ever consent to such gross injustice. Much objection, he said, had been made to this bill on account of an idea which had been suggested, that some persons might make speculations by taking up mill-seats, ferries, &c. He had no doubt some instances of the kind might occur; but, in all probability, if this advantage was not secured to the settler, it would be reaped by a combination of speculators, who generally contrived to pay no more than $1 25 per acre to the Government. Mills and ferries, he said, are necessary to the settlement of the country, and those who first establish them are entitled to great favor; and no improvements could be of more benefit to the public. The gentleman from Vermont [Mr. Everett] had said that we had as well do away with the auction sales entirely, as pass this bill.

Mr. D. thought the auction sales were wrong; they have not, at least for many years past, by the amount received on sales over $1 25 per acre, paid the expense of the auction. He had proposed to abolish those sales at the first of this session, at the same time that he submitted a proposition for granting pre-emptions, and did not doubt that it would be adopted before very long, as he believed it would be found best for the interest of the Government and permanent improvement of the country to allow the settlers to select and purchase their homes as soon as the lands were surveyed.

Mr. PLUMMER was in favor of the principles of the bill, and made an argument at length in its support. The question was not a new one, now for the first time to be settled. It had become engrafted into the land system. He called the attention of the House to the origin and history of the pre-emption laws. The idea advanced by the opponents of the bill, that it would benefit the large capitalists and cotton planters exclusively, and not the laboring portion of the community, was erroneous. He spoke of the practical operations of the law in his own State, which he professed to understand. The settlers on the Choctaw lands did not go there in the capacity of trespassers or intruders. It was true, there was a clause in the treaty of Dancing Rabbit creek, prohibiting white persons from settling in the country until after the fall of 1833, the time fixed for the completion of the removal of the Indians. It was also true, that the Secretary of War issued orders, in 1832, for the removal, by a military force, of all those who had settled there in violation of the provisions of the treaty. Before the order was executed, he (Mr. P.) remonstrated. On a representation of the facts, made in behalf of the Choctaws as well as the settlers, the orders were countermanded, and the occupants allowed to remain, and others invited by the Choctaw chiefs to move into the country. By the enterprise and industry of these pioneers, roads were opened, and bridges built, for the benefit of those who followed. They settled there with the approbation of the officers of Government, for the benefit of their followers and the General Government as well as themselves. What, he asked, would have been the situation of the country, at the time of the sales last fall, if these pioneers, so odious and contemptible in the eyes of gentlemen on the other side of the question, had not gone there the year before, and opened tracks into the interior of the wilderness, erected cabins, and prepared bread and meat for the convenience and sustenance of the surveyors, land officers, and land purchasers? Without them the country would not have been surveyed at any thing like a reason-expense. Without the preparation made by them, the same quantity of land could not have been sold, and those lands sold would not have brought so large a price; the country would not have been examined so minutely as to justify the capitalists in laying out their money. No one knew better than the honorable Speaker and himself, the difficulty of obtaining shelter for their heads, and provision for themselves, at the Chocchuma sales last fall, even with the aid of those enterprising settlers who had been there one and two years, and made crops. He (Mr. P.) being in bad health, procured a shelter in a log cabin, with a dirt floor, to sleep in; but the Speaker, [Mr. Bell,] he believed, camped out altogether, under cover of a large tree. If it had not been a fine fish country they must have suffered for eatables.

By means of these pre-emption claimants, the large capitalists, speculators, and men of wealth and fortune from Virginia, Georgia, and the Carolinas, were enabled to follow their trails in their carriages, with their families, into the wilderness, one and two hundred miles remote from the old settlements. By their enterprise and industry the advantages and resources of the country were opened to their view. By their being permitted to locate there, on public lands, the property of the Government was enhanced in value fourfold. He then appealed to the justice, liberality, and magnanimity of gentlemen, and asked if it was right, equitable, just, or expedient, for these hard-working, laborious, enterprising, and meritorious individuals, to be compelled to go into market, and contend for their own labor, and, if unsuccessful, their wives and little ones turned out of house and home, after having toiled with their own hands, by day and by night, to erect an humble cottage to shelter them from the chilling winter's rains and the heat of a scorching summer's sun? The settlements were confined to poor lands, or those of a middle quality. Very few of these occupants were on first-rate cotton lands. The gentleman from Ohio [Mr. Vinton] was mistaken in supposing that large capitalists, or cotton planters, were in the habit of opening plantations on public lands. Many of these settlers had, on their arrival, but one horse, a few head of cattle, and the means of purchasing but a few months' provisions. To deprive them of their homes was ungrateful, ungenerous, and impolitic. They ought to be encouraged. He would not put in for them a plea of poverty. He did not ask the extension of the pre-emption privilege to them as an act of charity. He claimed it as a matter of right. Hundreds of them were deprived last year of the benefit of a pre-emption law, passed expressly for them, by the erroneous decision of the land officers, which he hoped yet to get reversed.

Mr. P. discussed at length the merits of the bill and its various provisions, and pointed out its practical operations, which would benefit a valuable portion of his constituents, and probably not keep five hundred dollars out of the national treasury.

Mr. CLAYTON said he should not have taken any part in this debate, were it not that he was a member of the Committee on Public Lands. He should say but a few words. It was manifest that the settlers must, in any event, get their land; and the only question was whether they should get it directly from the Government, on the payment of the minimum price, or be left to purchase it from the speculators. Was it not better that the Government itself should extend to them the right of pre-emption, than that it should turn them over to the tender

mercies of the speculators? In the name of all that was just and all that was creditable, let the Government extend its protecting hand. Why should it suffer its lands to pass into the hands of those who, paying no more into the treasury than the poor settlers themselves, would thus purchase the power of oppression? Mr. C. said he had investigated the subject; and the result of a careful examination had satisfied him that the auction system had brought into the hands of Government but a few cents over the minimum required by law; and would the House, for such a contemptible gain as this, throw an enterprising and industrious class of men into the absolute power of those whose sole end was gain, and whose tender mercies were cruel?

Mr. VINTON said it was not his intention to reply to the many answers, as each gentleman had denominated his own speech, to the remarks made by himself when on the floor before. He could not, however, help saying it was somewhat remarkable that from half a dozen to a dozen gentlemen have felt themselves under the necessity of replying, with great zeal, to what they have been pleased to call an old speech. He could not but think it had something in it, old as it might be, or it would not have been considered necessary to repeat at least a dozen answers; and, so far from being satisfied, there are apparently yet a dozen more repetitions of it to come from other gentlemen.

It might, however, be proper for him to notice one fact adduced by the gentleman from Alabama, [Mr. CLAY,] and urged by him to show that the Government will lose nothing by this bill. He read a statement from the General Land Office, that the sales of the public lands, for eight or ten years past, had averaged only about 2 1-3 cents beyond $1 25, the land office or minimum price. Now, sir, that gives no information at all upon the subject under discussion. It will be recollected that the public lands are never exposed at public sale but once, and ever after they are subject to sale at a fixed price. In the State of Ohio, for example, very little, if any land, was offered at public sale during that time; it had all been offered at an earlier period. The sales in that State, and the great mass of the lands sold in the other States, during that time, were of lands that had been offered at public sale, and were sold at the fixed price. The statement exhibited by the gentleman aggregates into one mass all the sales at public auction and private sale, and finding the average of the whole to exceed the dollar and a quarter by only about two per cent., he thence infers that two and a third cents is all the advance that is obtained on the land actually sold at auction. Instead of the statement exhibited, the gentleman should have brought here a statement of the sales at auction, and of them only, and shown their average. The fact then would have been worth something. How does the fact which he exhibits show that the lands actually sold at auction do not bring an average of five or ten dollars? Is it not a fact, that before the pre-emption policy obtained, the cotton lands in the gentleman's own State (Alabama) sold at auction at ten, fifteen, twenty, and at all prices, as high as seventy dollars the acre, and that these sales were very large in amount?

[Mr. CLAY explained, and said those sales were under the credit system.]

Mr. VINTON said that made no difference. The law which required the public lands to be offered at auction in the first place, before they were sold at the fixed price, had undergone no change when the credit was abolished, or since. It is true the price was reduced seventy-five cents on the acre when cash payment was required, but that had no bearing whatever on this question; and if lands worth ten, fifteen, or twenty dollars per acre, were set up at auction, instead of being given up to those who took possession of them at a dollar and a quarter, he could not understand why they would not sell at an advance now, as well as formerly. And it was a main objection against the bill, that it operated a virtual repeal of the law requiring the public land to be first offered at public sale, and had the effect of bringing down the most valuable lands to a level, as to price, with what the gentleman calls "the refuse lands." And, he again repeated what he said when up before, that, if the bill passed, it was a virtual sacrifice of all the valuable lands and improvements, bought of the Indians at high prices, of the Red river and other valuable cotton lands yet to come into market, and of the mineral country in and above Illinois.

Mr. V. said he should not have risen at all, but for an aspersion, as he deemed it, cast upon a part of his constituents by the gentleman from Illinois, [Mr. DUNCAN.] That gentleman had informed the House that my district was the property of a company of great land speculators, who had an interest in keeping squatters off their lands, and were therefore naturally opposed to granting them favors. He had explained to the gentleman at the time, that the proprietors of the Ohio Company's purchase, to whom he had allusion, did not buy on speculation. But the gentleman had thought proper, notwithstanding, to repeat that they were speculators. Now, sir, this bill is nothing to them. You have no power to put settlers on their lands; and if you do, they have means, beyond the reach of your authority, of putting them off again. The Ohio Company's purchase was no land speculation. It was a tract of country sold, at an exorbitant price, to the officers and soldiers who had fought the battles of the Revolution, as the only compensation they could get, or you had the ability to give. As the only chance of getting any thing for their claims against you, they were compelled to leave the abodes of civilization, at the close of the Revolution, and plant themselves in the very heart of the wilderness, and in the midst of danger, hundreds of miles in advance of your population. There, with arms in their hands, they cleared up and cultivated their fields, and gave form and being to a system of laws and social organization which have extended to the gentleman's own State, and whose influences will go down to the latest posterity. The gentleman could not expect him to sit silently by and hear him deal out any opprobrious insinuations against the Putnams, the Butlers, the Greens, and other venerable names, which took the lead in that association. If the gentleman regards land speculators as opprobrious, then he furnishes the measure of estimation in which he himself is entitled to be held, as he had understood the gentleman was a land speculator.

[Mr. DUNCAN explained, and said he did not intend to use the term in an offensive sense; but used the fact of their being large holders of land for sale to show they had an interest in preventing the passing of a bill which would have the effect to depress the value of their lands.]

Mr. VINTON said the explanation of the gentleman showed he was as ignorant of the condition of the country about which he had undertaken to speak as he was of the men who owned it. There never were any great land proprietors in that district of country. About a million of acres, at the time of the purchase, near half a century ago, were divided into near a thousand equal shares, intended for settlement. And the natural changes and subdivisions since that time have brought about a state of things as far from land monopoly there as in the Atlantic States. He would say, in conclusion, that if the effect of the bill would be, what its object was said to be, to enable poor people to get little homes, who had not the means of going into the land offices and buying a little tract of land, he should be reconciled to the bill, however he might doubt its policy; for he professed to entertain towards that class of people as much good feeling and kindness as other gentlemen. But two years ago

you passed a law authorizing the public land to be sold in tracts of forty acres, expressly for the benefit of this class of people; so that now any poor man, who can raise fifty dollars, can go into any land office in the Union and buy him a little spot to live upon. Now, sir, how the man who cannot raise fifty dollars to buy forty acres, can raise two hundred to buy one hundred and sixty acres—the quantity for which the bill gives a pre-emption right—was past his comprehension, and had not yet been explained in any one of the many answers to what had been said by him when he was up before. If the pre-emption were brought down to forty acres, the poor man who could raise his fifty dollars, and no more, would have a chance under this bill. But those only who can raise two hundred dollars can avail themselves of its benefits. This fact, as well as what is known of the history of the pre-emption law of 1830, shows that the bill is intended for another and far different class of men; for men of property, who want to make a speculation, by selecting all the choice spots, and then get them at the price of "refuse land." He felt the firmest conviction that, if the bill passed, the valuable cotton lands yet to come into market, all the fine water power and sites for towns, all your mineral country, and all the Indian improvements which the Government had paid for at the rate of perhaps twelve or fifteen dollars per acre, would be sacrificed at the price of one dollar and a quarter; and fall into the hands of men who have no claims upon the favor or charity of Congress.

Mr. ASHLEY said he had risen not to enter into the merits of the bill, but mainly for the purpose of replying ot the remark of the gentleman from Ohio, [Mr. Vinton,] in respect to the lead mines. Mr. A. had lately expressed it as his opinion, that it would be wise policy in the Government to sell the mines. Since then he had received the returns of the commissioners, and they had confirmed his opinion. The first sale in Missouri had taken place in 1818; the lead lands were then reserved, and so continued to be till 1829 or 1830, when they were offered at public sale, and only thirteen quarter sections had been sold in seven days, and they brought into the treasury but $1,785, being only ten dollars over the amount at the minimum of $1 25. This was the result, after they had been withheld from sale for 12 years. The effect of this policy had been, upon the whole, a loss to the Government of $1,284. The gentleman had affirmed that it was the rich who settled the public lands. Now, on that subject, Mr. A. would only ask one plain question. He would ask of any rich man in this country, whether he would risk a location on the public lands? What would he require? He would need extensive buildings; and could he secure this by the purchase of the public lands? No. It was the poor who settled the public domains. It was men who were unable to purchase in the settled parts of the country. And it was a wise and humane policy which permitted them to find a home on the lands belonging to the Government. Their doing so increased the value of the public domain, and brought it the sooner into market. And this was the reason why so much of the public land was now sold in Ohio. The country was settling, and the adjacent lands rose in value.

Mr. STEWART, deprecating a longer debate, now moved the previous question; but, in the hope of a speedy decision of the bill, consented to withdraw it.

The CHAIR stated that the question was on striking out the enacting clause of the bill; when some conversation arose on an inquiry whether Mr. McCarty's amendment had or had not been received by general consent. The Chair inquiring whether there was any objection to it,

Mr. McKAY objected, and offered a further amendment, to strike out two years as the duration of the bill.

Mr. PEYTON said that he was as much a friend to the prosperity of the new States as any member on the floor; but, situated as his own State (Tennessee) was, the bill provided no relief or benefit for it, because there were no unsold lands in the State worth $1 25. As he considered that State entitled to equal justice from the older States, he thought the bill ought to go farther. Could it be wise policy to keep our public lands a forest? A gentleman from Vermont had insinuated that a blaze upon a tree, and the planting of a few potatoes, would be held to be occupancy under the bill. He would ask that gentleman whether any of the people from his part of the country would ever go upon the public lands, if no trees were blazed and no potatoes planted? The gentleman considered the bill as involving a great hardship upon the speculators, who came in large companies, with hundreds of thousands of dollars in their hands, to increase their fortunes by buying public lands. But what injustice was there in allowing a poor man to purchase that from the Government at a reasonable price, which he must otherwise purchase from them at any price they choose to ask? That poor man who had blazed the trees and planted the potatoes had chosen that spot as the home of his children. He had expended upon it his labor. He had toiled in hope. He had given it value, and he loved the spot. It was his all. When the public sale was proclaimed, if that poor man attended it, he might bid to the last cent he had in the world, and mortage the bed he slept on to enable him to do it. He might have his wife and children around him to see him bid; and when he had bid his very last cent, one of these speculators would stand by his side and bid ten dollars more. And thus he would see his little home, on which he had toiled for years, where he hoped to rear his children and to find a peaceful grave, pass into the hands of a rich moneyed company. Was this a policy to be patronised, to be established, to be fixed upon the laboring classes of this country? When the poor man had been thus stripped of his all, what tie was left to make him love his country? Such a policy would but teach the republic to alienate her children. In Tennessee, as was well known to most who heard him, land warrants had been laid upon all the valuable soil. And it would be a positive injury, instead of a benefit, to sell this refuse land at the present Government price. He would, therefore, move an amendment, proposing that all public lands unsold within the State of Tennessee be granted to that State, and be opened to location at 18¾ cents per acre.

Mr. SPEIGHT, apprehending that amendments to this bill would so be multiplied as to prevent its passing this session, to put an end to the debate, moved the previous question.

There being indications that this motion would carry,

Mr. McCARTY renewed the inquiry whether the amendment he had offered was or was not understood to be accepted by general consent?

The explanation resulted in declaring that it was not so received.

The sense of the House was now taken on seconding the previous question, when the vote stood: Yeas 91, noes 54. So the motion was seconded.

The previous question having been put and carried, the bill read again, and the yeas and nays ordered; the question was put on its final passage, and decided in the affirmative: Yeas 124, nays 53.

So the bill was passed and sent to the Senate.

INDIAN ANNUITIES.

On motion of Mr. POLK, the House then proceeded to consider the bill making appropriations for the payment of Indian annuities.

Mr. WILLIAMS moved an adjournment; but it was negatived.

Mr. POLK then moved that the House concur in several small amendments, which, on his motion, had been inserted in Committee of the Whole. This was agreed to; and a long list of other items of amendments were concurred in.

On that item which applies 100,000 dollars, receipts of certain lands sold by the Seneca Indians, to the payment of their annuities, a debate arose, in which the propriety of adopting such an amendment was fully discussed by Messrs. ADAMS, POLK, FILLMORE, PARKER, and BINNEY.

The Senecas sold their lands in New York for 100,000 dollars, which was placed by treaty in the hands of the President of the United States, in trust for them, they to receive the interest annually. The money was vested in United States Bank stock, (of the old bank,) afterwards in the six per cents., and finally in the three per cents. It was afterwards, by law, placed in the treasury, to the credit of a certain fund called the Indian appropriation fund. Here it lay dead, while the Government continued to pay to the Senecas 6,000 dollars annually. The amendment proposed to pass it to the credit of the Treasury, to be applied to Indian contingencies.

The amendment was opposed, as being a violation of the trust under the treaty.

The amendment was amended, on motion of Mr. BINNEY, by inserting a proviso, declaring that nothing in the amendment should be considered as prejudicing the right of the Senecas to the 100,000 dollars.

The amendment, with this proviso, was concurred in.

Mr. HAWES renewed his amendment, moved in committee, requiring the annuities to be paid to the chiefs or to persons appointed by them; but it was negatived.

The bill was then ordered to its engrossment,

And the House adjourned.

SATURDAY, JUNE 14.

UNITED STATES TREASURY BANK.

Mr. McKIM asked the unanimous consent of the House to submit the following resolution:

Resolved, That a select committee be appointed to inquire into the expediency of reporting a bill to authorize the issuing of fifteen millions of dollars in treasury notes, bearing an interest of five per cent. per year, under the direction of a board of commissioners, to be appointed by law for that purpose, to be loaned out by said commissioners to such individuals of the several States, who may apply for a loan, as can give full and satisfactory security for the reimbursement of the same on the first day of July, 1836.

Mr. WILLIAMS objecting—

Mr. McKIM moved a suspension of the rule, to enable him to offer the resolution; whereupon,

Mr. WILLIAMS withdrew his objection, being willing, he said, that this "experiment" might have a trial before the House.

The objections were, however, renewed, and the House finally negatived the motion to suspend the rule, so as to allow it to be offered; the House, which was at that time very thin, being about equally divided upon the question.

INDIAN ANNUITIES.

Mr. POLK rose to ask the unanimous consent of the House to take up the bill making appropriations for Indian annuities, which being objected to, he finally moved a suspension of the rule for the purpose of going into Committee of the Whole on the state of the Union on sundry appropriation bills.

Mr. WILLIAMS desired to have some information in respect to the outlay of a former appropriation of $500,000 for the removal of Indians. Otherwise, he said, he could not vote for the bill making appropriations for the payment of Indian annuities.

Mr. POLK replied that he had been informed that the sum appropriated had been disbursed as it was designed, which the accounts at the Department would show, in defraying the expenses of removing the Cherokee and Choctaw tribes of Indians, who had emigrated to the West. The inquiry of the honorable member from North Carolina, however, he thought would be more appropriately made by a call for information in a distinct proposition to that effect, than upon a bill providing for appropriations which the United States were bound by treaties to make.

Mr. WILLIAMS then said that he would not embarrass in any way the passage of the Indian annuity bill, although he must acknowledge he should have been better satisfied than he was if the honorable member had been prepared to give him the information for which he had sought.

Mr. DAVIS, of South Carolina, then said he rose for the purpose of putting a question to the chairman of the Committee of Ways and Means, and, indeed, to the committee, collectively and individually. The chairman has just moved the House to go into a Committee of the Whole, for the purpose of taking up appropriation bills, before taking any measure to redeem and rescue the public treasury from its present lawless and unconstitutional condition. I now desire, (said Mr. D.,) indeed, demand, in the name of the American people, to know whether it is intended to adjourn and leave the public money in the hands of the President, who himself admits that legislation is necessary, and recommends the action of this House? You are now called upon to make appropriations, when you are utterly ignorant where or what the treasury is. How dare we go back to our constituents—

The SPEAKER having interposed, and declared the pending motion was not debatable--

Mr. D. said he had risen for the purpose of stating that he could not vote for any of these appropriation bills unless he was assured that it was the intention of the honorable member to make some legislative provision on the subject of the public treasure.

Mr. POLK would state that his present object was to go into Committee of the Whole on the state of the Union, generally. After the appropriation bills were disposed of, if there was time for it, he should be much gratified if they could proceed even one stage on the bill, reported by the Committee of Ways and Means, to regulate the terms on which the deposites should be placed in the State banks.

Mr. DAVIS. Then it is to be understood it is your intention to proceed with that bill.

Mr. POLK assenting, the House, on his motion, resolved itself into Committee of the Whole on the state of the Union, (Mr. GHOLSON in the chair,) and took up the bill making appropriations for certain

FORTIFICATIONS FOR 1834.

Mr. POLK gave notice that, when the bill should be in the House, it was his intention, as he had formerly intimated, to propose reductions in the items for Castle Island, &c.

Mr. WHITE, of Florida, moved an amendment for completing the fortifications and making repairs at St. Augustine, 50,000 dollars.

Mr. W. explained the necessity for this appropriation, and, after a few remarks from Mr. POLK, in opposition, who expressed his hope that discussion would be deferred until the bills were in the House, it was rejected.

Mr. McKIM then moved an amendment for the repairs of the works erected for the defence of Baltimore, and at the mouth of the Patapsco river, $25,000; which was also rejected.

Mr. PARKER moved to strike out the appropriation of $100,000 for the fort on Throg's Neck, East river, New York; which was rejected.

Mr. GORHAM then proposed an amendment, merging the items for the repair of Fort Independence and the item for the fort on George's Island into one, and reducing the sum proposed by the bill to $125,000; which was rejected.

Mr. PINCKNEY moved an amendment, to insert, in substance, "that the appropriation of $50,000 for Charleston harbor should be expended, under the direction of the Secretary of War, at Fort Moultrie and Castle Pinckney, which he said he proposed in accordance with certain resolutions entered into, and transmitted to him from the town council of Moultrieville.

The amendment being rejected—

Mr. PINCKNEY notified the House that it was his intention to renew it in another stage of the bill.

The bill was then laid aside.

The bill making appropriations for the payment of claims of the Georgia militia, also the bill making additional appropriations for the national armory at Harper's Ferry, were taken up, considered, and severally laid aside.

The committee having disposed of the light-house bill, which underwent sundry amendments—

A struggle commenced, as usual, in reference to what business should next be considered. Mr. BINNEY moved the bill for West Point; Mr. ASHLEY the bill to continue the Cumberland road to Jefferson city; and Mr. WHITE the coin bill.

The committee agreed to consider the bill making appropriations for the

MILITARY ACADEMY AT WEST POINT.

The bill having been read by sections, the word "&c.," was, on motion of Mr. ADAMS, striken out wherever it occurred.

The salary of a clerk was, on motion of Mr. McKAY, reduced from 1,000 to 900 dollars.

An amendment was moved, to enable the accounts of a lieutenant to be settled, who had acted as an agent to purchase apparatus.

The second section of the bill, which went to increase the allowance of the professor of drawing, (in the expectation of retaining Leslie, who has since returned to England,) was striken out.

Mr. HAWES moved an amendment, providing that if any student did not complete his education at the academy, or, having completed it, should refuse to serve for —— years in the army, should not receive the benefit of the bill.

Mr. EWING considered this amendment as well calculated to destroy the institution, and as involving great inequality and injustice in the treatment of the students. He wished that the people of the West should have an opportunity of having their children educated there, as well as those from the old States had been.

Mr. WARDWELL suggested that the amendment must be modified, as it was now inconsistent with the bill.

Mr. HAWES withdrew it for the present.

Mr. DICKINSON, of Tennessee, moved to amend the bill by striking out the enacting clause, (which would destroy the bill.) He supported his motion by a speech, at length, of great animation, in which he commented on the aristocratic character of the Academy, as at present conducted; extolled the value of education in a free State, but deprecated its being exclusively confined to the children of members of Congress and other influential persons.

Mr. WARD said: I regret that the honorable gentleman from Tennessee [Mr. Dickinson] has submitted the motion to strike out the enacting clause in the appropriation bill under consideration, because we have now but thirteen days remaining in this session for the transaction of business; and it is to be apprehended that the discussion which may arise upon it will not only delay its passage, but may be a means of preventing the House from acting upon many important subjects which still remain to be acted upon. The honorable gentleman has avowed himself to be decidedly in favor of abolishing the West Point Academy, and I have no doubt he is sincere in the belief that this is the surest way to effect his object.

I could have wished, however, that the subject had been brought before the House upon a bill introduced for that purpose. But, since the honorable gentleman has chosen this method, and seems disposed to press it to a decision, I am, for one, now prepared to record my vote upon the question.

It will be recollected that a resolution was introduced by the honorable gentleman from Kentucky, [Mr. Hawes,] to abolish this institution, which has been lying on our table from the commencement of the session, unacted upon, not from the want of a disposition on the part of that honorable gentleman to call it up, but because the several bank resolutions and the report of the Committee of Elections have, in fact, engrossed all the time of the House which is assigned to the consideration of resolutions. It is also within the recollection of the House that the honorable gentleman from Maine [Mr. Smith] gave notice, some time ago, of his intention to offer an amendment to the bill now under consideration; which, if adopted, would, I have no hesitation in saying, effectually destroy the institution. It is, perhaps, proper that I should say that the question, with respect to the expediency of abolishing the Academy, was referred to the Committee on Military Affairs, upon two several resolutions transmitted to this House from the Legislatures of two of the States in this Union, recommending it for the consideration and action of Congress; and that the distinguished chairman of that committee [Mr. R. M. Johnson] recently submitted an able report on the subject, in favor of the institution. That report (said Mr. W.) ought to be read by every American. That honorable chairman has, with his usual industry, deliberately investigated the origin and history of the institution, its system of instruction and discipline, and its effect upon the character of the army and of the nation; and has put at rest for ever the constitutional objection which has been raised by the honorable gentleman, [Mr. Dickinson;] and I therefore beg leave, most respectfully, to refer him to that document for a satisfactory reply to his argument on that point.

I am therefore induced to think, from the imposing character which the subject has assumed, that it is due to the army, to the institution, and to the country at large, that an immediate decision should be had upon it. I have no fears, myself, as regards the result; but I trust a vote will now be taken, that the public may know whether it is to be broken down or not.

The honorable gentleman [Mr. Dickinson] commenced his speech by calling in question the expediency as well as the constitutionality of the institution; and maintained that, as it formed no part of the peace establishment, the best interest of the nation required that it should be abolished.

How is the fact, sir, with respect to this objection? It will be seen, by reference to the act entitled "An act fixing the military peace establishment of the United States," passed the 16th day of March, 1802, that the Military Academy was then, in its incipient stage, made and constituted a part of the army, in the words of the act itself. The Academy was created at the time when the army was re-organized, and the act was entitled "An act fixing the military peace establishment." The twenty-sixth section of that act empowered the President of the

United States to organize a corps of engineers, to consist of one engineer, with the pay, rank, and emoluments of a major; two with the pay, rank, and emoluments of a captain; two with the pay, rank, and emoluments of second lieutenants; and ten cadets, with pay at sixteen dollars a month, and two rations a day. The twenty-seventh section of the same act provides that the corps, when organized, shall be stationed at West Point, and "constitute a Military Academy."

On the 29th of April, 1812, at a period when the country was on the eve of the late war with Great Britain, another act was passed, declaring that the Military Academy should consist of the corps of engineers, and the following professors and assistants in addition to those appointed under the former acts, viz: a professor of experimental and natural philosophy, a professor of mathematics, a professor of the art of engineering, with an assistant for each; and the number of the cadets was by the same act limited at two hundred and sixty. Previous to the passage of this act, the establishment was found to be too limited to furnish the number of well-instructed officers, in the different branches of artillery and engineering, which the public service called for.

Now, sir, I would ask whether a reduction of any part of our present small peace establishment is called for at this time? If we compare it with similar establishments of other nations, it will be found, so far as numbers are concerned, scarcely to deserve the name of an army. In England there is one soldier to every one hundred and forty of its population; in France, one to every hundred and ten; in Austria, one to every hundred; in Russia, one to every ninety; in Prussia, one to every sixty-eight; and in Sweden, one to every fifty-one; whilst in this country there is not in our service, including the cadets, enough to exceed one soldier out of every two thousand of our population.

If it be necessary to keep up such a force in these respective nations, in order to preserve peace among themselves, of how much more consequence is it that we should maintain in this, the only legitimate free Government on the face of the earth, at least the skeleton of an army, in order to preserve unimpaired, from foreign aggression or intestine commotion, the rights and privileges bequeathed to us by our patriotic sires. If the object of the motion of the honorable gentleman be not the reduction of our peace establishment, can it be intended with a view to the retrenchment of the expenditure of the public funds? I should hope not; for the institution has been sustained, and that, too, without a complaint from any quarter, while our country was burdened with a national debt of upwards of one hundred millions; and now, when that debt is extinguished, and when deep solicitude prevails among our most enlightened citizens, lest the superabundance of public revenue which must ere long flow in upon our treasury may tend to corrupt the morals of our rulers and to endanger the peace of the country and the permanency of the Union itself in the struggle for its distribution, it seems to me scarcely possible that the country will assent to the destruction of the institution on this ground.

Let us, then, for the sake of consistency and the best interests of the country, preserve an establishment which has been so long and anxiously cherished by the first men and purest patriots in the nation, and one of which the nation may justly be proud, and happy to possess. We have now in our army, from the highest to the lowest grades, many officers of education, of talents, and of distinguished merit, some of whom have seen no little service, and most of whom have been educated at this institution.

Sir, I may here be permitted to advert to the observations of a distinguished traveller, in favor of our small military establishment. I allude, sir, to the Duke Saxe Weimar, a military gentleman of much experience, and who is now a general in the service of the King of the Netherlands. He states, in his book of travels through this country, that "there is scarcely an army in Europe in which the corps of officers is better composed than in the United States' service; that no one can, on any account, be an officer if he is not well educated; and that, therefore, if a young man is seen in the uniform of an American officer, it may be with confidence inferred that he is in every respect fit to maintain his place in any society." It is seldom, it is true, that we find among the numerous travellers through this country the slightest disposition to say a word in its favor, or to do justice to our institutions; nor, sir, do I regard what they say. It is enough for us to know that our countrymen are satisfied with their present happy condition, and that they would not exchange it for that of any people on the globe. But in this gentleman we have met with an honorable exception, and one, too, who has taken great pains to inquire into the character and composition of our military peace establishment; one, too, capable of judging and estimating its value, who is willing to render justice and to speak the truth.

Sir, there is every reason to believe that, if our present military establishment, small as it is, consisting of less than seven thousand, be left undisturbed, we shall find, at no distant day, that it will be the means of saving a thousand times more money to this great and growing nation than can possibly be saved by the reduction of any portion of it. And, sir, while it shall offer to those who embrace the military profession a permanent calling, there will be inducements for men of talents and character to remain in it; but if it is assailed at every session of Congress, thereby rendering the tenure of office uncertain in it, the more reflecting part of the officers will naturally look for a retreat, and leave the service as soon as they can make their arrangements so to do; nor will that be all—the spirit of the service will be destroyed, and the army itself will dwindle into that state of insignificance in which the late war found it.

It certainly cannot with propriety be said that the present military establishment is useless, that it is unnecessary, and that there is no danger to be apprehended from abroad or on our Indian frontiers; for, if we look at it as a whole, we shall find it advantageously disposed of and usefully employed in fortifying our seacoasts and harbors, in improving our country by means of roads and canals, in garrisoning the forts erected to guard our maritime and inland frontiers, and, in fact, every where aiding, in good feeling with their fellow-citizens, to improve the condition of the country, and in diffusing knowledge on many subjects yet little understood among us. It does not, like other armies, in time of peace eat the bread of idleness; it is employed more usefully and beneficially to the country than the army of any nation in the world. Its organization now approaches as near to perfection as we could expect or hope. We have this institution, where the youthful officers acquire a theoretical and practical knowledge of their profession before they are allowed to take the command of or to undertake to instruct the soldiers. We have, besides, one division, consisting of one regiment of dragoons and seven regiments of infantry—and another division, consisting of four regiments of artillery—the former posted on our inland frontier, to preserve peace among our citizens and the Indian tribes; the latter on the Atlantic and Gulf of Mexico, to guard our commerce, in conjunction with our naval force, and to maintain our rights within our own waters. We have, likewise, an admirably-organized ordnance corps, and a corps of engineers, composed chiefly of officers educated at West Point; and we have a staff exactly suited to the circumstances of our military arrangement. The whole is, in fact, so happily constituted

that it is capable, at a moment's warning, to render effective, for any service, one hundred thousand men, by instructing them in the manual and in the evolutions of the line, and by employing the members of the staff to provide for transportation, quarters, fuel, pay, clothing, arms, ammunition, forage and subsistence, hospital and medical stores, and attendance; all of which are so essential to the comfort and very existence of an army in time of war, that the bravest troops, for the want of them, can be of little service.

Sir, the present military establishment, I do conscientiously believe, is equal to all this; and now, sir, shall we, the representatives of the people, for the paltry consideration of a few thousand dollars, destroy its symmetry, nay, its very efficiency, by lopping off one of its most ornamental and most essential branches?

It is not to be wondered at that, in a country so wide and extensive as this is, we should find advocates, among our most worthy and intelligent citizens, for the abolition of this institution; for, sir, we know that there are many of our best citizens who maintain, if not with as much ability, certainly with as much zeal as the honorable gentleman from Tennessee has manifested on this occasion, that it is inexpedient to expend the public money in erecting forts on our seaboard, for the protection of our cities and of our commerce; nay, sir, I have no doubt that there are those who would be glad to see all our fortifications levelled with the earth. There are also those who are in favor of dismantling our glorious navy, and dismissing from the service our officers and seamen; and it is to be regretted that there are many of our respectable citizens who are zealous and eloquent advocates for repealing all laws with respect to training and disciplining the militia; some of them on the ground, as they allege, of the demoralizing tendency of the military parades; and others from their aversion to bear arms, either in war or in peace. Yes, sir, there are those who would be glad to see that important arm of our national defence stricken off, on which the honorable gentleman [Mr. Dickinson] seems willing solely to rely for our future defence. Notwithstanding the feeling of hostility against the militia, it must be admitted that we are measurably indebted to it for our independence, and, consequently, for the seats we now occupy as the representatives of a great and glorious people. It was the militia that gave the first impulse to the ball of the Revolution; it was the militia that faced the enemy at Lexington and at Bunker's Hill; it was the militia that penetrated into the Canadas, through an almost impassable forest, and advanced victoriously to the very gates of Quebec; and, in 1776, during that dark period of the war, the militia nobly resisted the prowess of the veteran troops of our enemy on Long Island, at Fort Washington, and at Trenton. In 1777 they gained for us the signal victory of Bennington, and aided in the capture of Burguoyne and his army. The defence of the southern section of our country, during that memorable war, was confided chiefly to them. Their services during the late war, when commanded by experienced officers, were no less valuable. They achieved for our country the most important victories during that war. I allude to the action at New Orleans, and to the battle of the Thames. And, sir, when Plattsburg was invaded by land, by one of the best-appointed armies ever sent to this country, the militia from Vermont and the northern section of New York poured in from all quarters, volunteered their services under the gallant General Macomb, prevented our forts from falling into the hands of the enemy, and thereby secured for us the victory on the lake. But although it will be conceded that it is absolutely necessary that an effectual and efficient militia should be kept up for our national defence and personal security, and that upon their strength in a great measure depends the very existence of our Government and the safety of our civil institutions, yet, as I have before remarked, there are many advocates for its total destruction. Indeed it would seem, from some of the views taken of this subject by the honorable gentleman from Tennessee, that he and many other persons have adopted a persuasion that this country, from its remote position and growing strength, is placed out of the reach of danger or annoyance from other Powers, and that, consequently, there is no necessity for resorting to the usual precautions for asserting our rights or defending our possessions. They appear to think that the time will never come when military skill or military spirit will be put in requisition; and that, therefore, they may safely be suffered quietly to subside in this favored country, which is in future to depend entirely on its own supposed inherent strength and fortunate position.

Such notions, sir, are, in my opinion, dangerous in the highest degree; they are unworthy of statesmen; they are at war with all the experience of the history of mankind, and they tend to the neglect of those means which a prudent forecast will always recommend to the adoption of every nation, be its situation what it may. No nation, sir, can be safe from insult or injuries, that is unable to resist them. To be unprepared for war is the surest way to provoke a war; weakness ever invites insult. The arts of peace, which enrich and embellish nations, are incapable of defending them; and wealth, without the power of protecting it, is ever the prey of violence.

But, sir, have we no neighbors, rivals, nor enemies, to apprehend, that we are so willing to turn the sword into the ploughshare? Have we no cause of apprehension from any quarter, that we are content to lay down our arms, and to go to sleep in the shade of the laurels acquired for us by our distinguished sires? Is it safe to let the skill and spirit which is necessary, not only to the defence but the existence and independence of every nation, however powerful or however insulated, perish under "the cankers of a calm world and a long peace?"

Sir, commerce makes neighbors of every nation of the civilized world, and makes them rivals, too. It brings their interests into collision, and rival interests make rival nations. Does any gentleman that hears me imagine for a moment that, because a good understanding at this moment subsists between the United States and England, it is to last for ever? Are we not rivals in trade on the ocean and on the land? Yes, there and every where? Have we no unsettled points of dispute remaining, to kindle into a flame old grudges and jealousies? Is that great and powerful nation willing to give up the right of search and impressment? Is she prepared to admit the people of the United States to the free navigation of the St. Lawrence, or are they prepared to relinquish it for ever? Is the boundary line between Maine and Nova Scotia yet settled? Or is there any reason on earth to anticipate an everlasting calm between the two countries? Sir, the farmer makes hay while the sun shines, and a wise seaman never thinks of a long calm but as the forerunner of a tempest.

In the extremity of our confidence we seem, sir, to have forgotten, too, that there are powerful nations growing up, and waxing stronger and stronger every day, on our southern as well as northern borders—Canada on one hand, Mexico and Colombia on the other. In the former, the mother country, although burdened with a heavy national debt, is laying out millions in placing her provinces in a perfect state of defence, in erecting a fortress at Quebec which will compare, in point of strength, with the fortress of Gibraltar, and in the encouragement of immigration. It may be said that the stronger these provinces grow the sooner they will throw off the yoke of dependence on England—that they will follow our example. Granted; but will they be less formidable when they are independent?

As to the republics of South America, will they not soon rise into power, grandeur, and pride? Possessed of the finest climates and most fruitful soils, productive of every thing that we produce, rich in the resources of great nations, what is to hinder them from becoming our rivals in this new world? There is not one link to bind them in friendship with the United States; nor have they ever, on any occasion, discovered a disposition to forget that they differ from us in language, laws, and religion. Sir, there are two causes of hostility between nations, equally fruitful in their consequences—identity and contrast. They may be so much alike in every thing as to be always coming in contact in pursuit of the same objects, or so totally different as to make their friendship impossible. For the application of these remarks I need only refer to the English on one border and the Spaniards on the other. In their vicinity to us we see the germes of future collision and future contests.

Sir, there is another Power, too, whose head, though reared in another quarter of the world, stretches its limbs until they almost touch our own extremities. In one direction we are separated from it thousands of miles; in another we approach within what may be called striking distance. I allude to the vast empire of Russia. If, sir, you look on the map of the northwest coast of America, you will find our own citizens and the Cossacks almost within hail of each other. Who shall say they will not one day meet to contest the possession of vast regions, out of which kingdoms and States may be cut and carved? Sir, I confess this is looking into futurity; but are we legislating, as laborers work, by the hour or by the day, or for ages yet to come? This is not a question, trifling as it may seem to some, the consequence of whose decision will die with that decision. It is a question whether military habits, military skill, and military spirit, shall be kept alive in this, the only legitimate free Government on earth, or be suffered to expire; nay, to be extinguished by an act of our own legislation.

That the Academy at West Point is eminently calculated to keep alive and foster such habits, skill, and spirit, I think cannot be denied, when its nature and organization are considered. I will not enter into the minutiæ of its discipline and the course of education pursued at that institution, because I do not wish to add, at least more than my quota, to the mass of words, rising mountain high, which this memorable session has produced already. It is enough for me to say that it ought to be entitled to the national confidence by the fruits it has already produced. I make no invidious or insidious comparison when I say, that the young officers who have been educated at West Point are, with no exceptions that have ever come under my observation, an honor to the nation; and as useful as they are honorable. I appeal to all who have ever known or associated with them, for testimonials of their high acquisition in military science—their manly, uncorrupted character, and their capacity for enduring hard service. I say, sir, they are not excelled by any race of young men that exist, or ever did exist, in this or any other country. When they come forth from the institution with their diploma, or, in other words, with their commission, under the great seal of their country, they come forth hardened by exposure, disciplined by arts and science, fortified by virtuous habits, animated by gratitude and patriotism, and inspired by a love of glory.

It is such men, sir, that we want in this country. They constitute an ingredient indispensable to the preservation of the national character, in which, it must be confessed by all, interest—the love of money—furnishes too powerful an impulse. There should be, somewhere or other in every country, a depository for the preservation of the holy fire of patriotism and honor. There should always be a body of men, however small, who value the high sentiments of patriotism and honor more than money—a body which, without superior rank, exclusive privileges, or hereditary distinctions, (for, thank God, we have none in this country,) that cherishes and keeps alive a certain standard of thought and action, which serves, in some measure, to temper and counteract that spirit of sordid selfishness which the exclusive pursuit of money inevitably produces. I will not, sir, go deeper into these matters, content with having suggested them to the consideration of the House. Though less obvious, they are not the less important—because they enter deeply into the formation of a national character, on which, after all, every people must rely for the respect of the world.

But we are at peace, sir. How long this calm may last, in the present troubled state of the world, when kings seem engaged in an almost universal struggle with the people, no one can tell. The spirit of prophecy is baffled in the confusion which the future presents. All we can know, at least all I know, is, that the nation which relies on an eternal calm will one day be awakened by a whirlwind. Such, sir, is the nature of men and the constitution of society, that it will ever be found that a few years, more or less, always accumulate the materials for national revolutions and national contests. It requires then only a spark to set the pile of combustibles in a flame. If we look at the history of the world, we shall find one-half the six thousand years of its duration spent in wars. Nay, sir, there never was a period, not a day, not an hour, not a moment of time, since the world became separated into nations and tongues, in which a universal peace reigned among them. Are our passions different from those of our ancestors? Are the causes or the occasions for human strife diminished or alleviated? On the contrary, have not the diffusion of the great interests of nations, by their commercial rivalry, multiplied them almost to infinity? Why, then, sir, dare we presume that we alone, of all the nations that exist, are to be exempt, hereafter, from the necessity of defending our rights or vindicating our honor?

It is true, sir, we are at peace with all the world, and long may we continue so. It is not the policy of this Government, and I trust it never will be, to go to war for conquest. If we should ever be involved in a war again, it will be in defence of our liberty; and all I wish is, that we may not go to sleep under the seducing delusion that we shall never be disturbed in our slumbers; for, let it be recollected that, in addition to the ordinary causes of hostility among nations, the United States presents one peculiar to itself. I mean an example of the immeasurable blessings arising from the successful experiment of a rational liberty, that cannot but endanger the safety, and, consequently, provoke the ill-will of despots and their tools all over the world. Let us, therefore, be on our guard, and, if we repose at all, let it be under arms, and with the means of defence within our reach. Let us not, because we do not want them now, wantonly throw them away. Let us preserve among us, at least, a few depositories of military spirit and military knowledge. Let us never again be reduced to the degrading necessity of importing engineers from France, disciplinarians from Prussia, or defenders from any part of Europe. Let us, in one word, sir, depend on the strength of our own arms, a just cause, and a righteous umpire, for the defence of our rights and our glory.

The honorable gentleman [Mr. DICKINSON] stated, as an argument against the expediency of continuing this institution, that neither the immortal Washington nor his brave associates, during the war of the Revolution, nor General Jackson and the officers under his command, during the late war, had received the advantages of a military education.

The honorable gentleman might have gone a step further, and stated that Washington had not had the ad-

vantages of a collegiate education. But I apprehend that such an argument would have but little weight in inducing the people to believe that there is no necessity for protecting and encouraging seminaries of learning. Washington, however, was brought up in the camp. He had been educated in the tented field, under experienced officers, and had, like most of our citizens at that day, been exposed to danger and inured to arms in contests with the savage foe. But, nevertheless, I am inclined to believe that we should never have been an independent nation, had not our ministers abroad been instructed to obtain the services of experienced officers. Our success may, in a great measure, be ascribed to the engineers and disciplinarians of Europe who joined our standard; and it is my earnest desire that we may not, in future, be reduced to the degrading necessity of employing foreign officers in our service.

As regards General Jackson and his achievements, I have to say that he has not, either in or out of Congress, a more ardent friend and admirer than I am; and that I would be the last man to rob him of a leaf of his well-earned laurels; nay, more, I am willing to grant that, when most of those who now think and speak lightly of him shall have passed away from the earth, and not a stone nor a mound shall remain to tell that they have lived, the name of General Jackson and the fame of his achievements will form one of the brightest pages in the history of our country. But, as regards both Washington and Jackson, it is enough to say that they, like a few other great men who have lived in different ages of the world, are exceptions to all general rules, and required, perhaps, few of the aids which are necessary to ordinary men. But no country can expect to have such men as these always at command. It is only at some fearful crisis that Providence seems to call up such men, as the deliverers of nations. But even to such men as these the skill and science of others are essential, and it cannot be the part of wisdom to leave them destitute of such assistance.

The honorable gentleman from Tennessee (continued Mr. W.) stated that the navy is the right arm of our national defence. Be it so. I am the last man in the world to undervalue our glorious navy. But one arm is not always sufficient for defence. Nations require two arms sometimes. It will never be in the power of this Government to support a navy sufficiently large to defend a coast like ours, extending from Canada to Mexico, or to prevent the landing of armies. At any rate, a navy cannot protect our interior from invasion; nor can those forts which have been and which are erecting for the defence of our exposed points of attack be rendered efficient for that purpose without skilful engineers and officers of artillery. Are we to take example from the Turks, and to imagine that great forts and big guns, without the skill to use them, will keep off an enterprising enemy? No, sir. Let us have men who know how to direct these means of defence, and let us have this Military Academy to prepare them for that purpose.

But the great objection urged against the Academy by the gentleman is that, in the apportionment of cadets, the sons of the rich are preferred to those of the poor. Pray, sir, if this be true, whose fault is it? There is no provision in the act establishing this institution giving this preference. It is not inherent in the Academy; and it is therefore nothing—if, indeed, it has existence—nothing but the abuse of the appointing power somewhere. Far be it from me, sir, to say where that somewhere is. I would only respectfully, very respectfully, ask from whence this power of appointing cadets generally receives its first impulse? Is it not, nine times in ten, from the members of this very House? That I know to have been the case during the administration of the honorable gentleman who sits near me, [Mr. J. Q. Adams;] and such has been the case, so far as my observation has extended, during the present administration.

The friends of the institution have just cause of complaint that the alleged abuses, if they do exist, are laid to the charge of the institution, when, in fact, they ought to be laid to the charge of the members of this House and the other branch of the National Legislature, for the appointments are now made from the respective congressional districts, as the vacancies occur. The patronage of the Government, in this respect, is in a measure committed to them, the Executive placing full and entire confidence in their recommendations—and that, too, for the very best reason—because they are better acquainted with the moral character of the applicants. The honorable gentleman from Kentucky, [Mr. R. M. Johnson,] in his report, which I have already alluded to, makes use of the following pertinent observations on this subject:

"The very word selection implies a balancing of claims; and it is not to be supposed that any individual, however extensive his intercourse with society might have been, would be able, from his personal knowledge of candidates, to frame in all cases a just award. This difficulty increased as the number of admissions to be granted increased, and as the classes from which a selection was to be made were multiplied. To rely entirely upon the representations of individuals residing at a distance, and equally unknown with those whom they recommended, would be, obviously, most unsafe. It would be reposing confidence, under circumstances which would not justify trust in ordinary matters of mere pecuniary interest. The representative branch of the Government, including under this denomination the Senate and the House, afforded a mean of obtaining the information prerequisite to a decision, which promised an effectual security for the rights of all. No inference could be more legitimate than this, that they who were intrusted with the higher concerns of the people, and who were directly responsible to the people, would be safe counsellors in the administration of this interest. From these and similar views originated, probably, the rule of selecting one cadet from each congressional district, and of allowing great weight to the recommendations of the representatives of the respective districts. This rule, while it afforded to the appointing power the means of judging correctly, or rather of avoiding error, was acceptable to the representatives and to their constituents."

But, sir, I am not willing to admit that these charges are true. On the contrary, I have no hesitation in stating that nothing is more unjust than the accusation that the institution is aristocratical in its tendencies, or that the selections for it are solely made from the wealthy and influential. From the information I have received, derived from sources entitled to the fullest credit, I am warranted in saying that the rich, the poor, and the middle classes, are now and have heretofore been duly represented, and that there are not to exceed one-fifth of them selected from the sons of that class styled the wealthy; and, surely, no one will contend that they ought to be totally excluded from this privilege; for, as they bear their full share of the burdens of the Government, they are entitled, upon every principle, to enjoy equal privileges with the other classes. I have a distinct recollection of an incident connected with one of these appointments, which came under my own observation, and which I will take the liberty, with leave of the House, to relate. Some few years ago a young boy came to this city alone, with no recommendation but his own manly spirit, to ask for admission to the Academy at West Point. Hopeless as his chance of success seemed to be to all, the then Secretary of War, Mr. Barbour, gave him the appointment; and it gives me pleasure to add that, although he was not, at the time when he received his warrant, sufficiently advanced in his studies to be admitted, yet he applied him-

self with so much assiduity, during the few months he had to spare before entering, in preparing for his admission, that, upon presenting himself at the Academy, he was admitted, and passed through his course with honor to himself. He is now, sir, an educated man, and an officer of standing in the army. Sir, I have reason to believe that there are many similar cases, which have come under the observation of other members of this House. I leave them, however, to speak for themselves.

Now, sir, I maintain that if there have been but ten young men of that character who have been taken from the common walks of life, and thus rescued from ignorance, degradation, perhaps from vice, and placed in situations where they may become blessings to their country, all the money which the Government has expended upon the institution has been a cheap price for such an acquisition.

Sir, without the advantages of an education, which such young men can now receive at this institution, the army will be for ever closed to the poor—for, sir, how is it possible that a poor young man is to educate himself for the army? It is true he may enlist in the ranks and run his chance of promotion. In times of war and long commotions such men do rise, because the very circumstances in which they exist educate and form them for usefulness in military life. But a man does not become an engineer or an artillerist intuitively. We might just as well expect men to be born lawyers and statesmen. While on this subject, I think I can say, without the fear of contradiction, that no preference or favoritism, of the kind already adverted to, has ever been shown at the Academy. I do not know that such a charge has ever been made; but if it has been made, I have only to say it is totally destitute of foundation, as distinctly appears from the fact that many of the sons of the most wealthy and powerful men in this country have been dismissed from the institution, either for incapacity or insubordination. This shows that neither fear nor favor operates there, however it may operate elsewhere.

But the honorable gentleman from Tennessee [Mr. DICKINSON] urges, as a further objection against the institution, that the graduates of the West Point Academy now engross all the appointments in the army, and consequently the door is closed against our citizens. Sir, are not the cadets selected from among our own citizens? Does the mere circumstance of their going to West Point deprive them of their rights as citizens? Or is it a matter of any moment whether they are appointed in the first instance to the rank of cadets (which is the lowest grade in the army) at the early age of 16 or 17 years, or appointed second lieutenants after they shall have attained the ages of 21 or 30 years? Surely not; for the same influence would, doubtless, be brought to bear in favor of their application for the latter office that is now brought to bear in favor of their applications for cadets' warrants.

Our army was crowded with scientific officers from abroad before this institution was established. But since then, these stations have been filled by our own native citizens. The whole number of graduates at the Military Academy, from its organization up to the eighteenth day of June, 1812, when our country declared war against Great Britain, was 86. At least eighty of them took an active part in that war, and the influence upon the army of such men as McRee, Totten, Wood, and Gibson, and many other graduates of that institution, may well be conceived, when it is recollected that they were foremost in the assault and the last in the breach. Many of those brave men repaid with their lives the debt which the country incurred in their education. Wood, Gibson, Rathbone, Williams, Hobert, Rouan, Burchard, Wilcox, and Smith, were killed in battle, besides others who died from wounds and exposure.

The midshipmen in our navy have always been selected from the young men of our country between the ages of 16 and 18 years, and yet we have never heard a word of complaint on that subject. The gentleman from Kentucky [Mr. R. M. JOHNSON] has made the following judicious remarks in relation to these appointments, in his report, which I have had occasion more than once to advert to:

"It is natural to remark, in this connexion, that the same system, in all its essential features, exists in the naval department, with regard to the admission and education of midshipmen. The regulations of that service prescribe that these young men, who are selected by the Secretary of the Navy, shall spend five years on shipboard, during which period of probation they shall be instructed by the chaplains or schoolmasters; and that they shall pass an examination by a board of officers before they can be candidates for the rank of lieutenants. Here, then, is a body of young men, who are selected by an individual, educated at the public expense, liable to be dismissed if they they fail at an examination through incapacity or idleness, and who alone can be advanced to the posts of lieutenants. Is there not, obviously, the same reason for the charges of exclusiveness and favoritism as there is in the case of cadets? The only difference is, that a ship is the school for the one, the Academy at West Point for the other. The consequence of this difference is, that the former are less thoroughly and extensively taught than the latter. It cannot, surely, be that the very perfection of the military institution, and the many advantages it combines and holds out, occasions the objections to it and the efforts that are made to render it unpopular in the country. The impulse of true patriotism would be to extend to the navy similar means of improvement with those enjoyed by the army; to substitute, for the mere theoretical teaching in navigation which young midshipmen derive from their schoolmasters, and the practical acquaintance with nautical instruments they are obliged to seek from the lieutenants or older midshipmen, a naval school—a school in which they may acquire a 'competent knowledge even of the art of ship-building, the higher mathematics, and astronomy; the literature which can place our officers on a level of polished education with the officers of other maritime nations; the knowledge of the laws, municipal and national; the acquaintance with the principles of honor and justice,' which constitute the distinction of 'the warrior patriot.'"

Sir, it is proper to remark that the appointments of the midshipmen are obtained through the influence of the members of both branches of our National Legislature, precisely in the same manner as the cadets procure their warrants. They are selected, too, from the same class of our citizens. And yet it is worthy of remark, that we have never heard it alleged that the navy is aristocratic in its tendency, nor have we heard charges against the Executive of favoritism in selecting and appointing the wealthy and influential solely to office.

I should be glad if the honorable gentleman will name a single officer, either of the army or navy, who has any means for the support of himself or his family beyond the pay he receives. I am not acquainted with one myself, and I am clearly of opinion that there is not one of them who can save a dollar from the pay he receives, even if he lives until he is a hundred years of age, to bequeath to his wife or children.

Sir, how were the appointments in the army obtained previous to the establishment of the institution, and how were they made during the late war, when our country required for its defence men of strong arms and stout hearts? I answer, in the same manner that the cadets and midshipmen are now appointed. The same mode of appointment would be continued, should this institution be abolished; and, sir, are not all or most of the civil

appointments in the General Government obtained through the same influence? And where can the Executive look with more confidence for the information necessary to enable him to make proper selections for offices of all descriptions, than to those who are sent here by the people as their representatives? I will not say, sir, that there have been no abuses in the institution. If, however, the opponents of the Academy mean to urge, as an argument against it, an abuse with which it has no possible concern; if they mean to say that the abuse of a good thing is decisive against the thing itself, then, sir, I have nothing to say but this: they should take away all power and patronage from men and give it to the angels. The administration of power will ever be imperfect, so long as man remains an imperfect being. Sir, the same irregularities—abuses, if you please—in administering patronage, have existed, and will and must exist, in all countries, ages, and nations. You cannot, by any effort of human power, or human wisdom, or human virtue, prevent some abuses of power; yet this is no argument against the necessity of the exercise of power and authority in the government of mankind. All that is required is, that the thing should be necessary, not that it should be perfect; that it should be generally useful and salutary, not that it should never be misused. Sir, if gentlemen are going to become the pupils, or rather the disciples of perfectibility, and denounce every human faculty and power that is in the slightest degree abused by the possessor, they will make shadows of Governments and fools of mankind.

Though no advocate for entailed burdens on posterity, for the sake of some present advantage, I cannot but think the best economy is that which is sanctioned by experience. It has always been found that nations entering into war unprepared have been obliged to expend enormous sums, and been subjected to the most serious disasters and losses; nay, sir, sometimes to the loss of their independence, before they would supply their deficiencies. The sums thus expended, in consequence of neglecting the warnings of a prudent foresight, have always been infinitely greater than would have been required to put the nation in a state of defence. The very losses and disasters sustained in consequence of this neglect have far exceeded the amount which would have been required to prevent them. I need only resort to the history of the late war, to establish that fact beyond all question. Hence, sir, it is that I oppose, and always shall oppose, this habit of dismantling the nation as we would a ship of war in time of peace. I would, at least, cherish the germe of the means of defence, even though defence might not be necessary at the time. I would not grudge a few thousand dollars to repair a fortress which cost millions, or to preserve from ruin a useful establishment, the loss of which would involve an expenditure of a hundred times the amount. It short, sir, I would, in the affairs of the Government, adopt the habits of prudent, economical individuals, whose experience has taught them to lay out a little that they may save a great deal; to provide for a rainy day, and to seize the opportunity of clear weather to prepare for the storm.

For these and many other reasons with which I will not trouble the House, I am opposed to destroying any thing useful, because it may not be required perhaps for the moment. Large sums have been expended in the various buildings at West Point, which the dissolution of the Academy would render entirely useless, as well as without value. The whole will be lost to the Government; and though I do not think this a sufficient argument for keeping up the establishment, I cannot but consider it a strong one for preserving one, that I myself think of the utmost consequence to the future, if not to the present. The Academy at West Point is acknowledged on all hands, by the most experienced soldiers, to be an admirable school of military science and discipline, both of which are indispensable to the safety of a nation. Sir, I want no great standing armies to defend and afterwards enslave the country. But, at the same time, I cannot but know, from experience as well as history, that though courage and patriotism may enable a people to achieve and maintain their liberties, it will be at a cost of life and property far greater than they would have sustained had their courage and patriotism been directed or aided by a reasonable degree of military skill. I am not inquiring whether the people of the United States are capable of defending their rights and liberties against any power but that which holds in its hands the destinies of the world, but into the best and cheapest mode of defending them. This I firmly believe to be the preservation of an institution for educating a certain number of the young men of the country in such habits of military discipline and such scientific acquirements as will serve to retain and preserve among us a sufficient knowledge of the art of war, to prevent our relapsing into that state of perfect ignorance which never fails, some day or other, to be followed by great disasters, if not by inevitable ruin.

I have the honor, sir, it is true, said Mr. W. in conclusion, of being one of the representatives from the State where this institution is situated; but I am not governed by personal or local considerations in giving it my support. I would be as strenuously opposed to its destruction were it situated on the remotest borders of our country, as I am now. It is not, therefore, the small amount of the public money expended in that State in sustaining it that would influence me in the slightest degree; because, if all the money which this bill appropriates were withheld from this day forth for ever, the loss would not be felt in that great State, any more than the loss of a drop of water from an overflowing fountain.

When Mr. Ward had finished his speech—

Mr. SMITH, of Maine, said he was desirous of offering another amendment, which went to repeal the laws by which the establishment had been remodelled and extended in its present plan, and reducing it to its elementary form and dimensions, as a school for the instruction of a small corps of military engineers.

Mr. DICKINSON insisted on his amendment.

Mr. BROWN said: The motion of the honorable gentleman from Tennessee [Mr. Dickinson] to strike out the enacting clause of the bill, and the amendment which the honorable member from Maine [Mr. Smith] declared he would hereafter submit, involves not only the fate of the bill under consideration, but the existence of the Military Academy itself. He rose to express his regret that this important question should be discussed at this time; and he would ask his honorable friends to pause before they proceed further. The Military Academy had been established more than thirty years. Its establishment had been repeatedly and earnestly recommended to Congress by General Washington, while President of the United States. It has been sanctioned and sustained by every adminstration, (commencing with that of Mr. Jefferson,) down to the present time; and, he ventured to say, it had at all times enjoyed the confidence and approbation of a large majority of the American people. He would remind honorable gentlemen that the faith of the nation was concerned in the duration of the institution for some time yet to come. Did they mean to deprive its professors and teachers of the places to which the Government had invited them, and for which their learning and attainments so eminently qualified them, without a moment's notice, or the slightest opportunity for preparation? Did they mean to cast loose upon the world 250 young men, selected from every part of the Union, whose education and hopes of future usefulness had been committed to the care and guardianship of the nation? He trusted he knew too well the high motives and generous

impulses which guided the action of honorable gentlemen upon this floor, to believe for a moment they could be accessary to such a gross and flagrant violation of the public faith, as these propositions (if adopted) would most surely accomplish.

He begged it might not be forgotten that the bill under consideration was one of the usual annual appropriation bills. And had not the House over and over again, in the course of the session, reprobated the practice of creating or destroying offices by means of bills of this character? And if the practice was pernicious when applied to offices alone, he begged to know if it would not be dangerous and pregnant with mischief when applied to the long-settled and permanent institutions of the country? It had been his fortune to reside in the immediate vicinity of West Point during the greater part of his life. It was within sight of his home, and formed a part of the district which he had the honor to represent. And he hoped he would be pardoned when he declared he felt an unfeigned and anxious solicitude for the preservation of an institution which he regarded as a necessary and essential part of our system of public defence, and an honor and an ornament to the nation. If the question must now undergo discussion, whether a military school for the instruction of our officers in the elementary principles of military science should exist hereafter, he must insist upon his right to be heard, reluctant as he was to examine so grave a question within the last fourteen days of the session. He wanted the subject examined (as it should be) upon a bill or resolution introduced expressly for the purpose. And he would respectfully assure honorable gentlemen that the friends of the Academy would not shrink from nor shun the inquiry. He would forbear to say more at present, until he saw whether the honorable gentleman from Tennessee would not withdraw his motion to strike out, and suffer the bill to pass through the committee. And should the discussion be renewed hereafter, he trusted the House would afford him an opportunity to be heard.

Mr. JONES moved that the bill be laid aside; but

The CHAIR pronounced this motion not to be in order while an amendment was pending.

Mr. DICKINSON made a brief rejoinder to Mr. WARD, explaining some of his former remarks in reference to the cadets who had left the institution.

Mr. R. M. JOHNSON said he had desired briefly to present his views of the advantages and disadvantages of the Academy, but, on account of the lateness of the hour and the advanced period of the session, he should abstain from doing so. After adverting to the sentiments of Washington, Jefferson, and Madison, respecting the school, he observed that, if the propriety of continuing the institution was to be regularly debated, it would be best to do so in a report upon the subject which had been made by the Military Committee.

Mr. McKAY hoped Mr. DICKINSON would consent to withdraw his motion, as it only tended to weaken his cause as an opponent of the Academy.

Mr. DICKINSON declining,

The question was taken on his amendment, and promptly negatived without a count.

So the House refused to strike out the enacting clause of the bill.

Mr. HAWES, having modified the amendment he before offered, now moved it again, proposing that no student be in future received into the Academy; and that, so soon as the students now in it should have completed their regular course, the institution be discontinued.

Mr. SMITH, of Maine, now offered, as an amendment to the amendment of Mr. HAWES, a proposition that, from and after the 1st of January next, the 2d section of the law of 1803, and the 2d, 3d, and 4th sections of the law of 1812, respecting the Academy, (viz: the law which extended the number of the students from 20 to 250, and enlarged the plan of tuition,) be repealed.

Mr. HAWES hoped Mr. SMITH would consent to withdraw this amendment until the question had been taken on that proposed by him.

Mr. SMITH declining,

Mr. EWING opposed the amendment of Mr. HAWES, as not being based on good policy. If the school was to be put down, let it be done at once: a gradual and prospective abolition would only furnish cause of dissension. As to the abuse of the patronage of the Government in relation to this institution, it was chargeable mainly on the members of the House themselves.

The question being put on the amendment proposed by Mr. SMITH, it was negatived without a count.

Mr. HAWES's shared the same fate.

Mr. HAWES thereupon moved another amendment, proposing that no cadet should, in future, be admitted, until his father or guardian had executed a bond to return the expenses of his education, unless his son should serve in the army.

This was also negatived, without debate;

As was another, in nearly the same terms, offered by Mr. BURD.

Another, moved by Mr. DUNCAN, reducing the number of students to 50, was, in like manner, rejected.

Another, by Mr. PINCKNEY, proposing that the school be abolished from and after the 1st of January next, having been rejected,

The bill was laid aside.

Mr. ASHLEY now moved again his bill to continue the Cumberland road to Jefferson city, Missouri; but the committee refused to take it up at this time: Ayes 63, noes 65.

GOLD COIN BILL.

On motion of Mr. WHITE, of New York, the committee then proceeded to consider the bill "regulating the value of certain gold coins within the United States."

The bill being read by sections,

Mr. BINNEY expressed his approval of so much of its provisions as went to fix the relative value of gold and silver; but as strongly dissented from the remaining features of the bill in relation to the fractional coins of the eagle and the dollars. These the bill proposed to debase by too large a portion of alloy, thereby giving the country a base currency in part. He considered it quite too late in the session to enter on the discussion of the delicate and difficult questions involved in this part of the subject. The opinions of the late Secretary of the Treasury, of Mr. Gallatin, and of the director of the mint, were all decidedly opposed to the policy of debasing the currency. He admitted that there was an able report in its favor; but he could not assent to its policy.

Mr. WHITE briefly explained. This part of the bill went on the principle of allowing to the Government a seigniorage to cover the expense of coining. He denied that it was debasing the currency. The legal tender was restricted to 10 dollars, and the principle involved differed in nothing from the conventional value of a bank note.

Mr. SELDEN agreed to the views expressed by Mr. BINNEY, but hoped the bill would be carried into the House, and discussed there.

Mr. BINNEY, assenting to this course, withdrew an amendment he had prepared and proposed to the committee.

Mr. JONES signified his intention to move several amendments to the bill, when it should come into the House. It was then laid aside, and the committee took up the bill regulating the value of certain foreign gold coins within the United States; which, after some conver-

sation between Mr. FILLMORE and Mr. HAWES, was laid aside.

The committee then rose and reported all the bills to the House.

The bill to reappropriate an unexpended balance of a former appropriation for the payment of the Georgia militia claims for the years 1792, 1793, and 1794, was ordered to a third reading, read a third time immediately, passed, and sent to the Senate for concurrence.

Mr. POLK gave notice that on Monday he would move that, instead of receiving petitions and memorials, the House proceed with the appropriation bills.

The House then adjourned.

MONDAY, JUNE 16.

Mr. POLK asked the unanimous consent of the House to take up, for final disposition, the appropriation bills lying on the Speaker's table to be engrossed.

Mr. GRENNELL said, as this was probably the only day left for the presentation of petitions, he must object.

Mr. HARDIN inquired if the honorable chairman of the Committee of Ways and Means did not know that this day was set apart for that purpose?

Mr. POLK replied he knew it very well; but, under the state of the public business, and if objections were made, he must move a suspension of the rule to enable him to take up these bills.

Mr. BURGES. Pray let us not turn a deaf ear to the petitions of our constituents, and let us hear the voice of a suffering people. Their petitions have been lying on our table, unacted upon, some of them for nearly five weeks. Is it not of more consequence to them to hear their voice, than to undertake to dispose of their money?

Mr. POLK modified his proposition, so as to move to have the rule suspended to take up the appropriation bills at half past one o'clock; which motion, after a desultory discussion, in which Mr. SUTHERLAND, Mr. POLK, Mr. VINTON, Mr. CHILTON, Mr. GRENNELL, Mr. WAYNE, and Mr. DENNY, participated, prevailed: Ayes 125, noes 38.

WAYNE COUNTY (IND.) MEMORIAL.

The House proceeded to the consideration of the memorial of 1841 inhabitants of Wayne county, Indiana, for the restoration of the deposites and recharter of the Bank of the United States, which was the unfinished business.

Mr. McCARTY rose and addressed the Chair as follows:

Sir, said Mr. McC., when I presented this memorial, and asked its postponement to a certain day—and which, by the business of the House, has been postponed till now,—it was with a view to await other testimonials and expressions of public opinion on this subject, from other counties comprising the district I have the honor to represent on this floor. I had expected that inasmuch as the subject of the currency, always of the deepest importance to a well-regulated community, had been agitated there in such a manner as to call forth an expression of public opinion of so large and respectable a portion of my constituents—of the largest county, not only of the district, but the State—that the surrounding counties would have manifested some indication of their sentiments or feelings on the subject; but in this anticipation I have been disappointed. I was the more desirous of obtaining an expression of something like the sentiments of the majority of my immediate constituents, because this memorial contains sentiments not entirely in accordance with my own opinions, and because I stand committed to the people I represent, to obey their instructions on this very question.

It is true, said Mr. McC., that this memorial does not emanate from a majority of my constituents; but the fact that it is signed by so large and respectable a number of the freemen of my district, and that the statements of the memorialists are uncontradicted by counter memorials; this, taken in connexion with the time which elapsed since this memorial was transmitted to this place, had much influence in directing my votes, recently given, upon the resolutions of the Senate, which, by the decision of this House, now sleep upon your table.

The memorial is from the most populous, and one of the oldest counties of the State I have the honor, in part, to represent. It is signed by 1841 of my immediate constituents; a majority, I believe, of the legal voters of that county. They are composed of farmers, mechanics, manufacturers, merchants, lawyers, physicians, and of every profession and pursuit incident to that section of the country, and are emigrants from almost every State in the Union. In looking over the names of the memorialists, I find that a large proportion are of that class of citizens who seldom participate in the party conflicts of the day. If they vote at all, which they do not always do, they approach the polls silently, vote, and return to their various occupations, without meddling with others, or obtruding their political sentiments on their neighbors with a view to influence their suffrages. They are of that denomination of citizens called "Friends," whose opinions are seldom formed or exercised for party purposes; they proceed from due deliberation, intelligent, cool heads, and honest hearts, and are therefore entitled to much weight and consideration.

There is another class of citizens whose names are attached to this memorial, who are entitled to equal respect; and who, in point of intelligence, integrity, and patriotism, would not lose by a comparison with the people of any section of this Union. Many of these men were the first settlers of that region of country, and among them I recognise distinguished names who were associated, in times of great peril, with that eminent and gallant general (Wayne) from whom the county of their residence takes its name. They belong to both political parties.

Sir, said Mr. McC., a majority of the memorialists are no political friends of mine; but they are my constituents, and, although differing in some degree from me upon this subject, I have thought it due to them to say thus much in reference to the influence and respect which I claim for their opinions in this House. They remonstrate against the course taken by the Executive in the removal of the deposites from the Bank of the United States, believing, they say, that it was an assumption of power not authorized by the constitution, and a violation of the contract between the Government and the bank; producing, they allege, unexampled individual distress, and a total loss of confidence in the circulating medium of the country; and that, consequent upon this state of things, all the staple commodities of the country have undergone a decline in value. Business and improvements are at a stand; and great sacrifices are made in order to fulfil previous engagements. They ask for a recharter of the bank, with such modifications as Congress may think proper to make; and also that the deposites be restored to the Bank of the United States. It is not, said Mr. McC., my purpose to discuss the merits of this question. It has been ably, eloquently, and profoundly examined, in both branches of Congress, by more experienced heads than mine; and, in my opinion, much has been unnecessarily said on both sides; nay, the subject has literally been exhausted and worn out, until the heart almost sickens at the very recital of the question. But justice to myself, from the attitude in which I am placed by this memorial, and those I represent, seem to require that I should say something in explanation of the course I have felt it my duty to pursue in reference to this subject. I am now, and ever have been, opposed to the United

States Bank as at present chartered; though I am clearly of opinion that a national bank is absolutely necessary, both as a safe and convenient fiscal agent of the Government, and a salutary regulator of the currency, as also to afford a sound par circulating medium throughout the country. Sir, I have never entertained any other opinion upon this subject. Though I always have been and still am opposed to the present charter, my opposition is not to the system, but to the uncontrollable power it possesses, and may improperly exercise, to say nothing of what has been done, over the politics of the country. I would, said Mr. McC., greatly prefer a new bank altogether; for there cannot be a doubt that great and salutary improvements may be made upon the system, were Congress rightly disposed. But, if it is found to be impracticable to create a new bank, I would not hesitate to vote for a recharter of the present, with proper guards and modifications; without which I could not, unless instructed by my immediate constituents, which instructions this memorial does not contain. In reference to the public deposites, simple justice to the bank might possibly require their restoration to its custody; but I am unable to see how such a restoration would restore the complained of paralyzed industry, broken confidence, and deranged currency, to their wonted health and vigor. If such a state of things really exists; if the bank shall not be rechartered, which this House has decided it ought not; and if the removal of the public moneys from the Bank of the United States has produced this unexampled distress throughout the country, would not the withdrawal of the same amount from the local banks, merely to be again placed in the United States Bank for the short period of little more than twenty months, the limitation of the present charter, when they must again be withdrawn and placed somewhere else, have a tendency to augment that distress? It seems to me that this result cannot be doubted. But upon this point, as upon all others not involving constitutional objections, affecting the interest, prosperity, and happiness of my constituents and the country, I shall feel bound to obey their wishes as soon as they shall be fairly made known to me.

Sir, said Mr. McC., I am no advocate of the local banks as a depository of the public revenue, nor of the absolute control of the Secretary of the Treasury over them. I believe the power legitimately belongs to Congress, and that they owe it to their country, their constituents, and themselves, to dispose of this subject speedily by positive enactment. I will not, said Mr. McC., detain the House at this protracted period of the session, to say as much as I had intended to say upon this subject. I move you that the memorial, with the names, be printed and referred to the committee to which the bill regulating the deposites is referred.

Mr. WARDWELL observed that he had not, during this protracted session, occupied the time of the House by saying a word upon the subject of the bank and of the distresses of the country; and he would not, at this time, trouble the House with any remarks, were it not for a most singular communication which he had received from a highly respectable constituent.

This memorial from the State of Indiana states, in substance, that there is an unexampled distress throughout the country, in consequence of the removal of the public deposites from the Bank of the United States. If this be the case, the people which he had the honor to represent must be subject to the same calamity. But they had not sent their complaints here—the district gave a majority of votes against General Jackson at the last presidential election; yet he had not received a single petition or memorial complaining of the removal of the deposites, or in favor of the bank. He had, it is true, received letters stating that the district was liberally supplied with speeches and reports in favor of the bank and against the administration, and that, for two or three months past, there had been much excitement in that section of the country; he had no doubt but that this excitement was, in some measure, produced by the unexampled exertions of political partisans, who, no doubt, were anxious to make the people believe that they were really distressed.

The manner in which he had reason to believe the names of some of his constituents were obtained, for the purpose of furnishing them with these political papers in favor of the bank, he would now state to the House. By this morning's mail he had received in a letter from a gentleman of the first respectability, and in whose statements the most implicit confidence may be placed, a printed paper or circular, which he would now read to the House. Here Mr. W. read a paper dated in February last, at the city of New York, and signed by J. N. Bolles and two others, requesting the names of the ministers of the gospel, exhorters, elders, deacons, and of moral, influential, public-spirited, and benevolent persons, for the purpose of transmitting to them a paper containing a circular which they wished to send through the State.

Mr. W. read also an extract from the letter which enclosed the circular, stating that, to the persons whose names had been furnished agreeably to the request contained in the circular, there were forwarded from time to time, and franked by members of Congress, the speeches of Mr. Clay and Mr. J. Q. Adams, and the report of Mr. Webster in the Senate, February 5, 1834, from the Committee on Finance.

From these facts gentlemen can draw their own conclusions. He knew nothing of the matter himself. He only stated the facts as received by him. He could vouch for the respectability, high character, and moral worth of the individual who sent him the circular. All may be right. Doubtless it was, so far as the names of members of this House are concerned.

As to distress in his district, he would state that he could say nothing of his own knowledge. He had, however, received letters recently, stating that many kinds of property sold by farmers had not brought a better price since the year 1817. He would state further, that, at the last session of the Legislature of the State of New York, a bank was incorporated and located at Sackett's Harbor, in his district, with a capital of $200,000; and such was the eagerness to obtain stock, that nearly $600,000 were subscribed. This shows, most conclusively, that there is some money left in the district, notwithstanding the removal of the deposites.

Mr. P. C. FULLER said that, in the present condition of the business of the House, (the rules having been just suspended two hours only, for the presentation of petitions,) he certainly should not occupy much time either in giving or requiring explanations.

In reference to the charge of having forwarded documents and speeches to persons in the district of his colleague, he would only say he had done so; but to an extent by no means commensurate with his own wishes, or, he believed, with the wishes of no inconsiderable portion of the gentleman's constituents. How he had been furnished with names he would cheerfully explain to his colleague; but he felt neither called upon nor at liberty to detain the House with details so unimportant and personal. For what purpose, (said Mr. F.,) or on what precise evidence, my colleague is inclined to connect letters and packages I may have sent to Jefferson county with the operations of gentlemen in New York whom I know not, and of whom I never have before heard, I am unable to determine. It is sufficient for me at this time to disavow, as I do, all knowledge of the circular commented upon—its object, its authors, or its connexion with any transaction whatever, of a political or any other character.

Mr. GRENNELL said, as the controversy was chang-

ed from State to church affairs, he would move to lay the memorial on the table; but withdrew it at the request of

MR SELDEN, who observed that, as his name had been alluded to by the honorable member from New York, [Mr. WARDWELL,] he would say a word in answer. It was intended to be insinuated that the circular read by the gentleman (which appeared to be a circular by some religious association) had some connexion with the distribution of documents in the county of Jefferson. Mr. S. said that, unfortunately for himself, he had very little to do with the church; less, no doubt, than he ought to have. With the circular, however, he had nothing to do, either directly or indirectly. Now, for the first time, he had heard of it. And the attempt made by the gentleman to form any alliance between him and the authors of this circular is wholly unfounded; there is not a shadow of truth in it; there is no evidence of any description in the possession of the gentleman, or any other person, which could justify him in making the suggestion. It is untrue throughout. A bookseller of the county of Jefferson, who visited Washington in February or January last, and with whom, if he recollects, the honorable member is acquainted, requested him to send documents to different individuals, contained in a list which he prepared and handed to Mr. S. He had sent some, and was very sorry that he could not send more. He would, with pleasure, furnish the gentlemen with a list of names of his constituents, if he would undertake to supply them with information; and if the gentleman was unwilling or afraid to trust his own constituents with the truth, he would also furnish them with information, so far as it might be in his power.

Mr. S. said he had no fear to trust his constituents with any document or speech. They were able to ascertain and understand the truth. Was it to be understood that the honorable gentleman was unwilling to do the same? Were not his constituents to be trusted with information? Did he fear that they could not understand it? or, understanding it, did he fear the consequences? Is this the ground upon which the representative under our Government hopes to preserve our institutions? Is it necessary, for this purpose, to keep the people in ignorance?

Mr. WARDWELL replied that he had not complained that the gentleman had sent documents into his district, but of the manner in which it was done. He had read a circular issued from the city of New York, requesting the names of the religious people in his district, and had stated the fact that the documents were sent to them under the frank of "D. Selden" and "P. C. Fuller." The franks might be forgeries, for ought he knew; but the documents were sent in the manner he had mentioned. He was perfectly willing that the gentlemen should send information into his district, but he (Mr. W.) was unable to furnish documents to the gentleman's constituents. He would furnish them, with pleasure, if he could get them without paying for them, as he presumed the gentleman did.

Mr. SELDEN now understood the gentleman, he said, to convey the charge further than he did at first. He had insinuated that he sent blank franks to New York or left them there, which he unequivocally denied. So far as the House has any interest in the question, it was right to say that all the documents franked under his name were franked by him and from this city, and not elsewhere. His colleague, who had also been charged in like manner, had made the same denial. The gentleman ought to be cautious in making suggestions, to go out to the public, without any reasonable foundation. If the gentleman intended to raise this insinuation, it was a matter between him and the gentleman. He would ask him to point out any proof of any kind in support of the charge.

Mr. GRENNELL said, as he perceived the honorable members were passing from "the State" to "the church," it was as well to arrest the debate and proceed to other business. With this view he moved to lay the memorial on the table, and that it should be printed, with the names; which motion prevailed.

FRANKLIN COUNTY (MASS.) MEMORIAL.

The memorial from the inhabitants of Franklin county, Massachusetts, for renewing the charter of the Bank of the United States, and for the restoration of the deposites, having been taken up,

Mr. GRENNELL supported the views of the memorialists at length. [His remarks have been given in preceding pages.]

The memorial was laid on the table, and ordered to be printed.

RHODE ISLAND RESOLUTIONS.

The resolutions of the Legislature of Rhode Island on the subject of the Bank of the United States, presented on a former day, being taken up,

Mr. BURGES addressed the House in support of them, and in condemnation of the ruinous course of the administration.

Mr. PEARCE obtained the floor, in reply; but the hour appointed for passing to the orders of the day having arrived, his remarks were postponed.

CUMBERLAND ROAD.

The House then took up the bill from the Senate for the continuance and repair of the Cumberland road, from Cumberland, through Ohio, Indiana, and Illinois.

Mr. POLK said he felt no hostility to the passage of this bill, but could not consent to the large amount of appropriation it contained. It exceeded the appropriation of last year by six hundred and seventy-seven thousand dollars; and he was assured by the chief engineer that, whatever sum might be appropriated, not more than three hundred thousand dollars could advantageously be applied by the department during the present season. The War Department had submitted three plans for the repair of the road east of the Ohio. The first was the construction of a clay road, which would cost one hundred and forty-seven thousand dollars. A second plan proposed to cover the road with stone taken from the immediate vicinity, which would cost two hundred thousand dollars. A third plan was to take up the stone foundation which had been laid for the road on the old plan, and then to grade and Macadamize the whole in the best manner; this would cost six hundred and fifty-two thousand one hundred and thirty dollars. This was for the one hundred and thirty-two miles between Cumberland and Wheeling; and would amount to about five thousand dollars a mile. Mr. P. deprecated the latter plan, as profligate and extravagant. He thought that it would be sufficient to cover the old foundation with a coat of stone, such as was found on the spot by the road side; and, under this persuasion, he moved to amend the bill by striking from it the appropriation of six hundred and fifty-two thousand one hundred and twenty dollars, and inserting three hundred thousand dollars.

He called for the reading of the report from the Committee of Ways and Means; which having been read,

Mr. STEWART called for the reading of the report of the Secretary of War. He said it was now too late to deliberate on which of the plans should be adopted, as the Department had already acted on the last plan. The old foundation had been taken up, and broken stone had been laid down upon the Macadam plan; it would be useless to cover the road with sandstone, which, in a short time, would be ground to powder by the immense travel constantly passing over the road. The reduction now proposed had been moved in the Senate, and rejected; should the bill now be reduced, it would probably share the same fate. The money appropriaaed last year

had been expended in November, and nothing having since been done to the road, all that was then done was, for the most part, lost by the effect of rains, frost, and travel. The States were ready to receive the road as soon as it should be put in good repair. The sum now asked would put it in complete repair; the Government would be entirely relieved, and the friends of the road would pledge themselves never to ask for another dollar.

Mr. DAVIS, of South Carolina, inquired how often the same pledge had been given?

Mr. STEWART replied never, by himself, or by any one he knew of, because they had never been in a situation to give such a pledge.

Mr. DAVIS scouted the idea of gentlemen thus giving a pledge which they could not enforce. The same promise had been repeated on every new demand for money. He hoped the chairman of the Committee of Ways and Means would persevere.

Mr. McKENNAN inquired of Mr. POLK, whether he meant to include in his amendment the striking out of the limitation in the last section of the bill, which provided that no more money should hereafter be appropriated for this object, and that, when this money had been expended, the road should be ceded to the States?

Mr. POLK said that he did not. He thought two hundred thousand dollars was sufficient to put the road in such a state of repair that it should be fit to be ceded. He referred to the large sums of money which had successively been appropriated to this work. He inveighed against the extravagance of the sum proposed in the bill, and went into estimates to show that this road had already cost the Government from eighteen to nineteen thousand dollars a mile.

Mr. McKENNAN signified his willingness to assent to the amendment.

Mr. WHITTLESEY pressed Mr. STEWART to do the same.

Mr. STEWART said that he could not, until he knew whether the chairman would himself vote for the bill, if reduced as proposed.

Mr. POLK, without directly answering this question, said that, if Mr. STEWART was willing to risk the bill as it now stood, he had no objections; but if the gentleman insisted upon the whole six hundred thousand dollars, he was ready to meet him.

Mr. McKENNAN was willing to accept the bill with the reduction, provided the restriction should be stricken out. The enlargement of the sum in the Senate had been the work, not of the friends, but of the opponents of the road, who had proposed this large sum, as a final grant, to get rid of the subject. The restriction declared that no more money should be appropriated. Supposing, then, that the three hundred thousand dollars should not be quite sufficient to complete the repairs, was the road to be left to go to ruin?

Mr. BEATY proposed, as a compromise, that the sum be divided, one-half to be expended this year, and the residue next.

Mr. McKAY, after quoting the several acts of Virginia, Pennsylvania, and Maryland, assenting (the last two conditionally) to the cession of the road, proposed to amend the bill by reducing the sum appropriated to 500,000 dollars, with the proviso that no more than 100,000 dollars should be expended until Pennsylvania and Maryland should change the form of their acts, assenting to the cession, by dispensing with the condition now therein contained.

Mr. WILSON was willing to accept the bill, if the restriction should be taken out of it. Supposing the sum, as reduced, should fail to put the road in such a state of repair as was contemplated in the act of Pennsylvania and Maryland, how could the General Government require of those States, in that case, to take the road off of its hands? As to what had been said of the pledge, he did not believe it to be nugatory, as was intimated. Those who gave it would stand by it; nor had he any doubt that the States would act honorably, and fulfil, to the letter, what they had promised.

Mr. THOMAS corrected the statement of Mr. POLK, from which he thought an impression had been left on the House that the proposed reduction would be in conformity with the views of the Secretary of War. The bill, as it came from the Senate, had received the approbation of that officer, having, in fact, been founded on estimates furnished by him. Mr. T. quoted the report of the War Department in support of this position; dwelt upon the waste of public money which had been occasioned by partial and insufficient appropriations, and insisted, at large, and with much earnestness, on the propriety of granting the whole sum proposed by the Senate. As to the condition of the treasury, to which the chairman had alluded, there was good grounds to justify the belief that the receipts for the next year would exceed, by three or four millions, the estimate submitted by the Secretary of the Treasury.

Mr. SUTHERLAND pressed for a decision.

Mr. WHITTLESEY believed 300,000 dollars would be enough. He was opposed to taking up the foundation of the old road.

Mr. SUTHERLAND moved to amend Mr. POLK's amendment, by substituting for the striking out of the 652,000 dollars, a proviso, that no more than 300,000 dollars of the money should be drawn from the treasury, during the present year, for the repair of said road.

Mr. ARCHER supported this amendment, and ridiculed the idea of giving pledges, which should bind their successors. No guaranty of that kind was of any value.

Mr. STEWART expressed his surprise that this motion should come from the chairman of the Committee of Ways and Means, [Mr. POLK,] who, he understood, would interpose no obstacle to the passage of this bill, though from constitutional doubts he would be constrained to vote against it. But as that gentleman had, notwithstanding, thought proper to move the reduction of the sum from 652,000 dollars to 300,000 dollars, he would not object to it, provided the gentleman would modify so as to strike out the provision in the bill which made this appropriation final, and thus make it conform to the bill reported by the Committee of Ways and Means; but if it was the object of the gentleman to reduce the sum more than one-half, and still retain the restriction which made the appropriation final, he would be obliged to resist it; and he now wished to know distinctly from the honorable chairman whether he would so modify his motion of not?

[Mr. POLK signified his unwillingness so to modify, and said that his purpose was to reduce the sum and make it final, as he thought it sufficient, and the estimate extravagant.]

Mr. STEWART said he would be glad to know upon what ground the gentleman undertook thus to condemn the estimates of the War Department as extravagant. The Secretary of War, the Chief Engineer, and the officers of the engineer corps, who made this estimate, had no interest in making it extravagant; besides, it was made after two years' operations on the road, when the precise cost of labor and materials was accurately ascertained. This estimate was printed, and placed, more than two months ago, on the gentleman's table, giving, in detail, the exact quantity of work required to be done; every perch of stone; every drain, culvert, side-wall, and bridge; every thing required to complete the road from one end to the other, with the precise cost of each item. Now, let the honorable chairman take up this estimate—no doubt he had examined it—let him point out a single item that is unnecessary, or too high; a single thing that is extravagant; let him put his finger on it, and I will consent to

strike it out. This he has not attempted. Why, then, shall the gentleman, without knowledge or examination, rise in his place, and, with his eyes shut, pronounce at random this minute and detailed estimate, made after two years' experience, by practical, disinterested, and scientific engineers, absurd and extravagant? Why ask this House to adopt his mere dictum in opposition to the enlightened opinions of the War Department, communicated to this House by the President himself. To do so would be equivalent to a vote of censure, which he hoped the House was not prepared to give. It is an easy matter, sir, for gentlemen to talk here about extravagance and prodigality; it is easy to say, as has been said, that this road has cost 50,000 dollars a mile; and that the people upon it have made fortunes, by getting contracts at extravagant rates; this is mere declamation. Look at the records in the Department, and you will find that the most difficult portion of this road—made during the late war, in the midst of mountains, overcoming difficulties considered insurmountable, at a time when the price of labor and provision was at the highest, passing sixty miles over mountains—cost less that 10,000 dollars per mile; the next portion, from Uniontown to Washington, cost only 6,400 dollars per mile, including bridges. A cheaper road, under similar circumstances, he contended, had never been constructed; and, so far form making fortunes, the fact was notorious that there were more honest and industrious men ruined on this road, by taking contracts too low, than had made fortunes by getting them too high.

But how, it is asked, is the repair of this road now so expensive? By attending to a very brief statement of the facts, this would be readily understood. This road was originally constructed by laying down a substratum or pavement of loose stone, one foot in thickness, and superadding six inches of fine stone, to give it a smooth surface; and thus it was left, without any system for its preservation, exposed to the uncontrolled action of the travel and the elements, for more than fifteen years, during all which time only three appropriations were made for its repair, amounting, together, to one hundred and seventy-eight thousand dollars. The road was, therefore, in a most ruinous condition; the whole of the six inches of fine stone gone, and much of the rough pavement cut through and destroyed.

In this condition, the States of Pennsylvania, Maryland, and Virginia, took it up, and passed the laws referred to in the bill, providing for the erection of gates and collection of tolls, whenever Congress should appropriate a sum sufficient to put the road in "a complete state of repair." To these acts Congress has assented; and two appropriations, one in 1832 and the other in 1833, have been made to carry these acts into effect, and thereby throw the burden of repairs, from the national treasury, on those who have the use and benefit of the road. The condition of the road was inspected personally by the Secretary of War, and also by General Gratiot, the chief engineer, who were satisfied, from its dilapidated and ruinous condition, that a complete and thorough repair, such as was expressly required by the State laws, could only be effected by taking up the road from its foundations, and reconstructing it on Macadam's plan, for which limestone (very scarce and expensive in the mountains) was the only suitable material; and it is mainly attributable to this fact that the expense of the repairs has been so great. In pursuance of this plan, more than two-thirds of the whole road has been taken up, and the first stratum of four and a half inches of fine broken limestone put down, and on much of it the second stratum, making nine inches of metal. It is, therefore, too late for the gentleman from Tennessee [Mr. Polk] to talk about a different plan; it is too late to rake up estimates made seven or eight years ago. The plan has been adopted by the Executive department, it has been sanctioned by Congress, and has been two years in progress; and now, after the whole road (except about forty miles) has been taken up, and is partly completed on the plan adopted, the gentleman talks about a new system. It is too late, sir. Surely, the gentleman would not himself consent to put broken sandstone on the fine limestone already put down. To do so would, indeed, be a wanton waste of public money; it would not last six months; it would all be ground into sand before the next meeting of Congress, when a further appropriation would be required to place the road in a condition to receive gates; the State laws requiring, as a condition precedent, the "complete and thorough repair of the road," preliminary to the erection of gates.

The question, therefore, as to the plan and the amount required, Mr. S. regarded as definitively settled by the concurrent action of the Department and of Congress; and the only question remaining to be decided was, whether the whole, or a part only, of the sum required should now be appropriated. This was a question about which he felt very little solicitude, and should be perfectly satisfied with any decision the House might think proper to make. He would, however, suggest a few considerations which seemed to him to favor the appropriation of the whole sum.

In the first place, the Department, having the certainty of funds, could regulate their operations accordingly. The whole road would at once be put under contract, and the work continued throughout the year, without the injurious delays which occur here in the passage of appropriation bills, by which the work has now been suspended for nearly eight months. And a considerable portion of the work done last summer had, during the winter and spring, been entirely destroyed by the combined action of the frost, rain, and travel, and must again be repaired at additional expense.

Again: Congress, by making a final appropriation, would be relieved from all further trouble with this most troublesome subject; and those interested in the road would find it their interest to hasten the erection of gates, and promote an economical and profitable expenditure of of the money, it being the last appropriation. But while Congress appropriate partially, from time to time, they have no such interest. Hence, he thought, every consideration of economy and sound policy favored the appropriation of the entire sum at once. The gates would be sooner up, it would cost less, and be in every way better than to continue to encounter the delays and embarassments which attended partial appropriations.

The objection urged against appropriating the whole sum by the chairman of the Committee of Ways and Means, on the ground that it would lock up this large sum in the treasury till the road was finished, was altogether unfounded. Surely, that gentleman knows that the money would be drawn from the treasury only as wanted, and that, till required, it would remain blended with the other funds, and applicable to the other wants of the Government. But the gentleman has also endeavored to alarm the House with the idea of a deficiency of revenue; and standing as he did, in the attitude of chancellor of the exchequer, his opinions were entitled, on that account, to some weight. But here the gentleman again comes in direct collision with the Secretary of the Treasury, who says, in his annual report, communicated early in the session, that, after satisfying all the estimates for the service of the year, and discharging the last dollar of the public debt, there would still remain, exclusive of unavailable funds, in the treasury on the 31st December next, $2,981,796 05, nearly three millions of dollars. And a few days since, in answer to a call from the Senate, the Secretary says the revenue has so far overrun this estimate, that the actual surplus, at the end of the year, after satisfying all demands, will exceed four mil-

lions of dollars. And yet, in the face of this statement, the chairman of the Committee of Ways and Means is found opposing his own bills, and withholding from the Government the sums required for the public service, lest there should be a deficit in the treasury. He was at a loss to conceive why this large surplus was to be retained. What benefit was it to the people to have their money idle, when it could be put into profitable circulation? To retain it could profit no one except the stockholders of the deposite banks; but would the people be satisfied to see four millions of their money in the hands of rich bankers and stockjobbers to speculate on, without paying one cent for the use of it? Yet such would be the effect of the gentleman's course. It was to give this money to the deposite banks, instead of giving it to the people, by expending it for their benefit on this great road, on which the mails and travel from this city and the seaboard to nine western States were daily in motion.

Much had been said about the enormous cost of this road; it was always selected as the theme for economical speeches. Why were gentlemen silent when other appropriations, much more useless and extravagant, were considered? If gentlemen would look to the facts, they would find that this road, from its commencement, twenty-eight years ago, had cost less, repairs and all, than the House in which we are now sitting; less than a single fortification now erecting a few miles below this city, still unfinished, and to which annual appropriations are granted without objection. Compare these objects in point of utility, and how do they stand? The road, even in time of war, for the transportation of troops, was more important than those forts; and in time of peace, the road is invaluable; while the forts are not only useless, but a constant burden on the treasury. Why did not the honorable chairman think of economy and the condition of the treasury when the fortification and other appropriation bills were under consideration? Why is the interior and the West to be forever excluded from all participation in the benefits of public expenditure? It was a fact worthy of special notice, and he called the attention of the House to it, that in the whole volume of annual estimates of appropriations for the publie service, amounting to upwards of twenty-three millions of dollars, there were but two objects embraced in all the interior and western States; the one was the Cumberland road, the other the Ohio and Mississippi rivers. Not another object could be found. He stated it as a fact, and he challenged contradiction; and it was a fact to which he wished to call the attention of the American people, that the whole annual expenditures of this Government, in all the interior portion of the Union, did not amount, annually, to half the sum expended on a single fortification! Yes, sir, draw a line one mile from the flow of the tides, one mile from the external boundary of the whole Union, and he affirmed that the whole expenditures within this circle, on public works of every description, did not amount, annually, to one million of dollars; not one million out of twenty-four; not one-third part of the cost of this splendid edifice went to all the interior and the West. The whole revenue (of which they paid their full proportion) was disbursed on the seaboard and the lakes, in the erection of forts and fortifications, harbors, light-houses, buoys and beacons, sea-walls, breakwaters; custom-houses, navy yards, dock-yards, and a thousand such objects; while the whole interior and West are put off with a reluctant appropriation of a few thousand dollars for the Cumberland road and the Ohio and Mississippi. Are we to be doomed forever to be mere tax-payers, "hewers of wood and drawers of water" for the seaboard? Is our money, like our rivers, to flow in perpetual streams to the ocean, no portion of it returning? He hoped not; he hoped a sense of justice and liberality would prevail; if not, a spirit of retaliation might be engendered, productive of the most injurious effects.

We have just passed, almost without objection, the harbor bill, granting to the Atlantic and the lakes, ... $652,000
The fortification bill, granting . . 887,000
The annual light-house bill, for oil and salaries, 251,000
For new light-houses, &c. . . . 395,000

$2,185,000

besides some three or four millions more, for the support of the navy and its appendages, dock-yards, &c. Thus, while we are granting, annually, some six or eight millions to be expended on the seaboard, without objection, is it reasonable or just for gentlemen from that quarter to refuse this pittance to preserve a great public road, necessary to enable us to come here, and mingle our voices with theirs in favor of these liberal, not to say lavish, expenditures on the seaboard, every one of which could be defeated by the votes of the friends of this road? Under these circumstances, he submitted whether opposition from the seaboard to this appropriation could be justified or defended?

He regretted to find some of his own colleagues opposed to this appropriation, but trusted their opposition would be withdrawn when they reflected that many of the honest citizens of Pennsylvania, who had taken contracts on this road, and to whom large sums were due, would be ruined by the failure of this bill; and the more especially when they reflected that this money went, not from Pennsylvania, but from the nation, to relieve a portion of the people of that State, who, while they sustain their full share of the burden, had no share in the benefits of an expenditure of more than twenty millions of dollars for improvements in that State. He expressed his astonishment that western gentlemen who travelled on this road should be opposed to it. The destruction of this road would be a non-intercourse between this city and the West; or, if gentlemen ventured upon it at all, it would be at the hazard of their limbs and lives. If this portion of the road is to become impassable, why continue it further west? Why continue to appropriate money to extend the road through Ohio, Indiana, and Illinois? This road was made under a compact with the new States. It was made in consideration that they should exempt the public lands from taxation. They had complied; they had paid the consideration, and fulfilled the compact. But these States had no power to legislate for the preservation of this road. It was not within their jurisdiction; and it would be a violation of good faith and the spirit of the compact for this Government now to suffer this road, made for the benefit of the new States, and for an adequate consideration, to go to destruction.

Gentlemen had seized on this as a suitable occasion to raise the constitutional question, and denounce the general policy of internal improvement as unwise, as leading to extravagant and unequal expenditures, and to unjust and oppressive taxation.

The constitutional power of Congress over the general subject, he said, was not involved in this question. This was not a proposition to construct an original work, but merely to preserve a work already constructed, and that, too, under a compact with the States. As to extravagant expenditures for internal improvements, about which so much had been said, he utterly denied it. Where or when had such expenditures occurred? Let gentlemen point our a case of useless or wasteful expenditure. This had not—it could not be done. Congress had legislated for internal improvements for forty years, and the whole expenditure for roads and canals throughout the Union did not amount to more than half as much as had been expended by the single State of Pennsylvania! It did not average half a million a year. Yet, to hear gentlemen declaim upon this subject, a stranger would suppose that this was almost the only source of public expenditure,

threatening the subversion of the Government. Who ever thought of incurring a debt or borrowing money to promote internal improvements? No one; the idea was never suggested. Its most ardent friends never claimed more than the mere surplus, after satisfying all the other wants of Government; and what injury or danger could result from this? None. He declared it to be his opinion that, if the tariff of 1824 had not been sacrificed to the spirit of party, the surplus revenue would now amount to at least twelve millions a year. It had averaged this sum for the last eight years. In 1832, more than eighteen millions had been applied to the public debt; and, had this tariff been continued, instead of fears of a deficiency in the treasury, we would now have at least twelve millions to distribute among the States for internal improvement. In ten years, this would amount to one hundred and twenty millions. And what would be the effect of such an expenditure? Would not this soon become one of the most beautiful and prosperous countries under heaven? united and bound together by indissoluble bonds; new sources of national wealth every where opened; new activity and life imparted to every department of industry; agriculture, manufactures, and commerce, all prosperous; in short, making our country what it ought to be, and what it would be, the wonder and admiration of the world. And all this accomplished, too, without imposing one cent of internal taxation. This immense revenue would be paid by foreigners, levied on foreign goods, and paid by the foreigner, or his agent, for the privilege of importing and selling them here. And, whether the duties were on or off, all experience proved that the price to the American consumer was the same. When we reduce the duty, the foreigner adds it to the price. He puts the duty into his own pocket, instead of our treasury. He appealed to experience for the truth of this position. Last year we repealed the duty on some hundred articles, amounting, in many cases, to fifty or sixty per cent.; the duty on tea, coffee, spices of all kinds, fine linens, silks, &c. They now come in free of duty; and are they any cheaper? Not a cent. On the contrary, some of them have risen in price. Thus our treasury and our people lose fifteen millions of dollars, heretofore paid annually by foreigners into our treasury; lost, too, without advantage to any portion of the American people; but, on the contrary, with positive injury, by destroying domestic industry, and facilitating the introduction of millions of foreign goods, which ought to be manufactured at home. He declared it to be his honest and firm conviction that the late repeal of the tariff, to appease nullification, would, if not soon corrected, destroy our manufactures, agriculture, revenue, and internal improvements, without benefiting, in the slightest degree, any individual in the United States. It would throw back this nation more than half a century in its late rapid and onward march to a condition of unrivalled prosperity and power.

He would pursue this subject no further, but return to the immediate question before the House; and, in conclusion, would state, in a few words, what he conceived to be the true and only question presented by the motion of the gentleman from Tennessee, [Mr. Polk.] It was simply whether the House would concur with the Senate in granting the whole sum at once to complete the repairs, or whether they would appropriate a part now, and the balance hereafter. Let the gentleman restrict it as he pleased, it would come to this in the end: the whole sum would be granted. The States have agreed to erect gates; but when? Not till the road was put in "complete repair." To this Congress has assented. A plan has been adopted and partly completed; it cannot be changed; $652,130 is required to complete it. The commissioners appointed by the States are not authorized, by law, to erect the gates till the repairs are completed. The sum now proposed by the amendment is obviously insufficient for this purpose; and, consequently, the gates cannot be legally erected. Hence, the question at the next session will be presented, whether the road shall fall back on the Treasury, to be kept free, as heretofore, or whether the compact with the States to "complete the repairs," shall be fulfilled, the gates erected, and this Government for ever relieved from this perplexing subject? This was the true state of the question. He repeated, he felt no great solicitude as to the decision, whether the whole or a part should be now appropriated; he thought, however, the object would be sooner and better accomplished, and at less expense, by appropriating the whole sum to complete the work. If so, he would pledge himself never again to ask for another cent; and all the gentlemen immediately interested were, he believed, prepared to concur in this pledge. But if only a part of the sum required by the Department to complete the work and erect the gates was now granted, no such pledge could or would be given.

Mr. CHILTON proposed that the further consideration of the bill be postponed to Thursday next.

On this motion Mr. VANCE demanded the yeas and nays; but the House refused to order them.

Mr. MERCER opposed the postponement.

Mr. VANCE said that no bill had suffered so much by frequent postponement as this had. Let the House decide as it pleased; all the friends of the bill asked was a vote.

Mr. SELDEN advocated the postponement, on the ground of the difference of opinion which seemed to prevail among the friends of the bill. If they could agree, he was ready to vote for the bill.

Mr. EWING replied that, if the House must wait till there should be no difference of opinion on such a measure as this, it must wait till this Government should crumble into ruins. And, should that event happen, this road would remain a surviving monument of the wisdom it once possessed. To postpone the bill would be to lose it.

Mr. CHILTON now consented to withdraw his motion to postpone.

Mr. CHAMBERS read an amendment, which, he said, he would offer at a proper time. [The amendment requires the States to whom the road shall be ceded, to erect gates upon it before any part of the appropriation shall be expended.]

Mr. POLK reminded the House that this appropriation of $600,000 was not the plan recommended by the Department. He again referred to the several plans submitted, of which this was the most expensive.

Mr. MERCER observed, in reply, that the two cheaper plans had been tried and rejected. He had personally examined the state of this road, and observation had satisfied him that neither of the other plans was of any value. Mr. M. here described the manner in which the road had been heretofore constructed, and the evils of the plan. He advocated the propriety of Macadamizing the whole anew with limestone, some of which must be brought as much as twenty miles, other portions fourteen miles, &c. The errors heretofore had arisen from no design to deceive or impose upon the House, but simply from want of knowledge.

Mr. THOMAS insisted that the report of the Department did virtually, though not expressly, recommend the plan contemplated by the bill; for, after stating the three modes of construction, it condemned the first two, leaving the third as the only proper mode to be adopted. [Mr. T. read from the report.] He argued to show that the plan of taking up the large stones at the foundation of the old road, and Macadamizing with limestone, was the only effectual mode of repairing the road, and putting it into a fit state to be surrendered to the States.

Mr. CHAMBERS considered the appropriation in the

bill as extravagant in the extreme. It was sufficient, of itself, to construct an entirely new road. The road passed through a country where the materials for a good road were abundant, and the bridges were already made. All the States asked was, that the road should be put in a reasonable state of repair, such as was the usual condition of their own turnpike roads. He contended there was no need of hauling limestone such a great distance, (which formed the chief item of expense,) as the material on the spot was sufficient. No doubt the workmen, if left to themselves, would choose the softest and most friable stone, as that was the most easily broken; but there were various kinds of stone in the mountains, and much of it was very fit and sufficient. In illustration of which position he referred to the road from Cumberland to Hagerstown. The Pennsylvania turnpikes were usually made in this manner. He considered $300,000 as not only sufficient, but more than was required. The States had long since passed their acts, accepting the cession of the road, and yet not a gate was yet erected. His amendment went to require the erection of gates before this money should be expended.

Mr. BEARDSLEY considered it desirable that Congress should get rid of this road, if possible. But, from the manner in which Congress had given its assent to the acts of Pennsylvania and Maryland, those States were not bound at all. Congress, instead of making its assent absolute and final, had inserted a reservation, which left it at liberty to withdraw its assent at pleasure. This bound nothing and pledged nothing. He wished an amendment introduced, declaring the assent of Congress to be given fully and finally, and without qualification. Let, then, the whole sum of $600,000 be appropriated, on condition that only $200,000 should be expended in a year; and that the States should bind themselves to take the road as soon as the whole sum should have been expended. In this way, Congress might finally rid itself of the charge of the road, which had been the source of so much dispute and expense.

Mr. DAVIS, of South Carolina, said that any one, to listen to the language and tone of this debate, would receive from it a wrong impression. He heard much about ceding this road to the States. He asked what right the General Government had to this road? How came it theirs? Had Pennsylvania ceded one foot of her soil to the Government? Not an atom of it. Whence did Government derive its claim? The Government could not take it, even if the States had ceded it. The constitution would not admit of it. Yet it was said that we must purchase the consent of the States to receive the road from the General Government. Now, were it not that he did not desire to use language that might be deemed offensive, he should say that this was sheer impudence. To talk about spending money to coax the States to take their own road! It was monstrous; it was preposterous. The cool indifference with which gentlemen brought forward such a proposition was not exceeded by the Kentucky farmer, who, when his neighbor offered him his corn for nothing, replied, "I cannot take your corn unless you consent to haul it." One gentleman had said that this road had received the assent of all our Presidents, beginning with Mr. Jefferson. This was true, and he believed that Mr. Jefferson had been, to the very day of his death, sorry for the assent he had given. It had even been proposed to establish gates upon the road. What power had this Government to establish turnpike gates on any road in the States? What right had it to interfere with their domestic concerns? If such a thing should be attempted, he should consider it the duty of the Legislature of Pennsylvania to abate the nuisance. As he wished to test the matter at once, he would now move to strike out the enacting clause of the bill.

Mr. MANN, of New York, said that, from what he had heard in this debate, it would seem that this road was an old acquaintance in the House, and, indeed, he believed that there were few persons in the Union who read the newspapers, but must be aware that such was the case. For himself, he could not vote for any of these appropriations. What was it? Here had the Government expended four millions of dollars to make a road, and now they could neither give it, sell it, or lose it, unless they would consent to lose with it $1,120,000. As to the $652,000 which was asked for repairing the road on this side of the Ohio, he would agree to give the money if he could be certain that there would be an end of it, and that the friends of the project would not come back to Congress and ask for four millions more. If any body would bring in a proposition, to give that money to the States concerned, on condition they would take the road and keep it, he would go for the measure. At present he should vote first to reduce the amount to 300,000 dollars, and then he should vote to strike out the enacting clause of the bill, and so he should proceed resisting every plan in its favor, till the Government finally got rid of the encumbrance.

Mr. VANCE said, he had been anxious that the question should be taken; but since gentlemen seemed to want a discussion, they should have it. And, in the first place, he would suggest to the gentlemen the importance of retaining this road, because, if they should get rid of it by passing such a bill as was now proposed, they would have nothing left to quarrel about; they would lose a fine topic on which to declaim and show their patriotism, and boast of the care they were taking of the public money. If this road should be out of the way, what would gentlemen do to show their constituents how they were here on their posts watching the treasury day and night? He knew that much money had been spent, but this measure stood at the head of the system of internal improvements. Out of it had sprung almost all the works which had since been constructed. But for the construction of this road over the Alleghany, the design of the great Erie canal would have slumbered to this day. It was the construction of this road which had first roused the attention of the country, and had directed it to the importance of securing an avenue to the great valley of the Mississippi. Hence all the roads and the different canals which were at this day crossing the whole Union, that they might obtain a portion of the trade and travel of the great West. They had all been brought into existence by the impulse which this first parent measure had given to the public mind. Yet it was a good thing that gentlemen should have this road as a subject upon which to make speeches. Were it not for their zeal in resisting appropriations for this Cumberland road, their constituents might, perhaps, look at the $600,000 for a custom-house in New York, and the more than a million of dollars for the repair of navy yards, and for the wear and tear of the navy. Yet, when a measure was brought forward in which every man and woman throughout the whole valley of the Mississippi had a direct concern, gentlemen from New York must rise and talk about extravagance. Mr. V. said he had examined this whole subject with care, and though it was true that this great national road had cost the country nearly three millions of dollars, yet its expense would not average three cents a pound on the merchandise which had been transported over it.

He well remembered the time when, as a western merchant, he had paid $13 per hundred for the transportation of goods from Philadelphia to Pittsburg. And what was it now? The whole amount which had been spent upon this object, if compared with what must have otherwise been paid by the people of the West, was but as a drop in the bucket. This expenditure was all which they had been able to obtain for the nine or ten Western States, and were they to stand there and hear themselves charged

with wasting and squandering the public money? Look at what had been done on the seaboard? Look at the $40,000 expended on the navy yard at this place. Look at the $180,000 in Newport. Look at the coast, from one end to the other, and at the sums which were every year voted for navy yards, and dock yards, and harbors, and custom-houses. But, as soon as it was proposed to penetrate the interior, and open a market for the great valley of the West, then it was a most profligate expenditure.

Mr. V. remembered exceedingly well when they used to carry all their iron and salt upon packhorses from Hagerstown to Winchester. If gentlemen wished to fasten down on the people of the Western country a state of perpetual privation, and to keep them for ever hewers of wood and drawers of water, let them speak out and say so. Then the West would know how to understand them. If they were not to receive a pittance from the treasury, to keep up an avenue to unite the East with the West, let it be understood; but let not gentlemen profess that the people of this country stood upon one level before the Government, and then keep eternally harping on this Cumberland road, and pouring out invectives about extravagance. This road had remained from 1818 to 1826 without the expenditure of one dollar upon it for repairs, and this was the true and main reason of all the expense which it had occasioned since. Had gates been put upon it at that time, Congress would never have heard of it again; but every man of common sense must know that any great public highway, especially one so perpetually travelled, if left for eight years without lifting a tool upon it for repairs, (and some portions of the road had been left fifteen years in that condition,) it must go to ruin. The large sums, of which gentlemen had made so much in their speeches, had been appropriated towards the repair of the road; but it had already been suffered to go so far that these sums, instead of putting it in thorough repair, were barely sufficient to keep it in a state capable of use from year to year.

Gentlemen had said that this road had been thirty years in constructing. Divide the total sum expended by that length of time, and the annual average would not be more than had been expended by this Government for the repair of navy yards: $449,000 had been applied for the repair of navy yards, and $590,000 for the repair of vessels in ordinary. All these sums were expended east of the mountains, while the people of the West had received, in all, a sum not greater than was thus spent in keeping our ships from rotting to pieces at the wharves, and preserving the navy yards from dilapidation. The State of Ohio, now represented by nineteen members on that floor, had received, in the last thirteen years, but about $600,000 or $700,000.

Mr. BEARDSLEY said that, in his last remarks, he had not professed to speak from knowledge, and he was glad now to learn that his impressions had been, in part, erroneous.

Mr. GHOLSON rose mainly for the purpose of relieving Virginia from the censure of the gentleman from South Carolina [Mr. Davis]—a censure which, in his (Mr. G.'s) judgment, the legislation of Maryland and Pennsylvania, in relation to this road, justly merited. It cannot be denied but that those States have shown a willing disposition to receive this improvement as the mere tenants at will of the General Government, if not its agents: but a reference to the act of Virginia, passed the 7th day of February, 1832, "concerning the Cumberland road," will vindicate her from such a charge. He was a member of the Virginia Legislature at the time, and, if his memory was correct, the bill originally proposed was similar to the acts passed by Maryland and Pennsylvania, and proposed that Virginia would take charge of the road whenever it was delivered by the General Government, in good repair; but the Legislature, not unmindful of the early history of the subject, and recollecting that, in the opinion of many, it was construed to foreclose her constitutional objections, embraced that opportunity to declare and reassert them. Hence, all requirement on the General Government to repair the road was carefully avoided, and the fourth section of the act expressly provided "that the General Assembly reserved to itself, at any future session thereof, without the consent of Congress, to change, alter, or amend the act."

It is in this provision of the Virginia law that the gentleman from New York [Mr. Beardsley] may find a solution of his difficulty in understanding the motive of the act of Congress approved March 2, 1833. The two acts are irreconcilable; and it was designed by Congress that it should be so: she was very willing that Virginia should take the road, provided it was taken as by a tenant at will from his landlord. The United States gave assent to the act of Virginia: "but such assent is to remain in force during the pleasure of Congress," and "provided the act shall not be construed as preventing the United States from resuming whatever jurisdiction it may now have over the said road, whenever, in its discretion, it shall deem it proper so to do." Mr. G. would conclude by submitting an inquiry. He was curious to know on what principle gentlemen, who maintained that the act of March, 1833, closed a compact with Virginia, were now proposing to intermeddle with and repair a road within her limits, and that, too, surrendered to her by law? Of those who concurred with him in opinion that the acts referred to conflicted with each other, he would ask how they could sustain a proposition to put this road upon Virginia with a reserved jurisdiction and control which she has expressly repudiated? Sir, she will not touch this road with such conditions; and the States which do, are but strengthening the unconstitutional assumptions of this Government, and providing the probable means for future collision.

Mr. WILSON, of Virginia, said that the act of Virginia could not be rightly understood, unless it was considered as referring to a proposal, which had first been made to her by the General Government, to take this road when completed and put in good repair. His colleague had said that a clause in the act to this effect had been stricken out. What, then, was the purport of the act? Simply, that Virginia would take the road whenever the United States should agree to surrender it. She had assented to the construction of the road through her territory; and now she simply said she would take it back. Mr. W. contended that the act had some meaning. The reservation by Congress had arisen, not out of the act of Virginia, as his colleague seemed to suppose, but from the fact that the road ran along the borders of States which, having little or no interest in its preservation, might neglect it. And the intent of the reservation was that, if the States should neglect to put up gates, collect tolls, and keep the road in repair, Congress might resume it into its own hands.

Mr. GHOLSON inquired whether his colleague could believe that Virginia would ever accept the road on any such terms?

Mr. WILSON replied that he could not say. He, as one of her delegates, should have no hesitation either in making the appropriation now asked for, or in surrendering the road.

Mr. GILLET said that he could not consent to give a silent vote, after listening to the remarks of the gentleman from Ohio [Mr. Vance.] He had not learned the constitution as that gentleman seemed to have done; and he should vote against the sum originally reported. He thought, nevertheless, that there was good ground to vote in favor of the bill. That ground was to be found in the contract made by the United States with the new States, to the North and West, to furnish them with a road to their respective boundary lines, as far as to Missouri. So far as

the provision of the bill came within the scope of that law, he should go in favor of it, and no farther. He hoped that there would now be a final end to applications in favor of this road. He had ever been opposed to the carrying on of works of internal improvement by the General Government. He thought the constitution contained no authority for it, and the same latitude of construction which had been held to authorize such works had given to the country the Bank of the United States, and the alien and sedition laws. The people had interfered at the great civil revolution, in the time of Mr. Jefferson, to put down such an interpretation. Things had then gone on quietly till the year 1824, when this new scheme was devised. But the people, in 1828, had again interfered, and condemned it in the most emphatic manner. The issue had been made more distinctly on the question of the Maysville road and the Bank of the United States; and the people had, in both cases, sustained the views of the Executive. Mr. G. should vote for the limited appropriation on the ground of contract, and not on the general principles of internal improvements.

Mr. VINTON had not intended to enter into this debate, but as a claim had been set up to the property of this road, and as the silence of the western delegation might be construed into an acquiescence in such a claim, it was his duty to reply to the positions taken by the honorable gentleman from Virginia, [Mr. GHOLSON.] Mr. V. then went on to contend that the United States could not, without the express assent of Ohio, Indiana, Illinois, and Missouri, cede away this road to any body. Mr. V. here went into a detailed history of the origin and progress of the road, and the stipulations of the General Government to construct, out of the proceeds of the public lands, a road to those States, and the covenant of those States to have the public lands free from taxation for a limited time. He insisted that the road was a mutual benefit, as much to the Atlantic as to the Western States; although, to obtain it, the States of the West had been obliged to throw the whole burden of their taxation on but a small portion of their territory. They had been desirous of having gates erected on the road, and were willing to pay the tolls to keep it in order. If this was refused by the States through which the road passed, the contract still remained, and bound the United States to keep up the road as they had covenanted to do. The road never could be abandoned by the people of the West. They looked to the General Government to see that it was kept up, and, whoever obtained possession of the road, they should continue to do so.

Mr. POLK, after expressing his regret that the present doctrine of internal improvements should have been introduced into debate, requested Mr. DAVIS to withdraw his motion to strike out the enacting clause.

Mr. DAVIS assented, and withdrew his motion accordingly.

Mr. POLK then again insisted on the expediency of leaving the foundation of the old road untouched, and covering it with a coating of stone, such as was found in the immediate vicinity. He referred to a report of the War Department in support of this view.

Mr. McKENNAN asked what was the date of the report?

Mr. POLK replied that it was made in 1827.

Mr. THOMAS, of Maryland, said the interests of his immediate constituents forbid he should remain silent and permit the House to decide on the pending amendment, under the erroneous impression which the remarks of the chairman of the Committee of Ways and Means were well calculated to produce. That gentleman had read an extract from the documents on our file from the War Department. The House ought to know that this extract did not appear in the report of the Secretary of War made to this House at the commencement of the session; nor in the annual report from the Engineer department, but was to be found in the estimates of the War Department for the expenditures of the year 1834. In that paper the Secretary of War requires an appropriation of $300,000 for the continuation of the repairs of the Cumberland road east of the Ohio river, provided the mode in which the Department prefers these repairs should be made meets the approbation of Congress.

Now, the House will perceive that this estimate for the year 1834 must not be its guide in deciding on the propriety of passing the bill from the Senate under consideration. That bill proposes an appropriation of $652,000, not to be expended in 1834, but to complete the repairs of the Cumberland road now in progress. It is well known that the Senate refused to make an appropriation for prosecuting these repairs until an estimate had been furnished from the Engineer department, showing the whole sum which would be required to complete them. In so doing, Mr. T. thought the Senate had acted wisely. The experience of the past ought to satisfy every member that these partial appropriations were inexpedient.

At the first session of the last Congress, the laws of Maryland and Pennsylvania, relating to this road, had been assented to by the United States. They proposed that this Government should repair the Cumberland road within the limits of those States, and then surrender all claim to jurisdiction over it to them: in which event, they agreed to appoint superintendents to collect a sum sufficient in toll, from travellers thereon, to keep that road ever thereafter in good repair.

In pursuance of this compact between the United States and the States of Maryland and Pennsylvania, to which Virginia subsequently assented in part, two other appropriations were made by the last Congress at its several sittings to prosecute this improvement. In November last, those appropriations were exhausted; and, from that time to the present, the officers of this Government employed to superintend these repairs, had been idle, although they had a right to expect their salaries would be continued. The road, too, had been left in such a condition that it would now cost several thousand dollars more to repair it than would have been necessary if the work had progressed without interruption. These facts were made known to the Senate; and, to avoid such a state of things hereafter, that body had rightly determined to appropriate a sum sufficient to exempt this Government from all further demands for this object.

The sum proposed to be given is that which is demanded by the War Department, if the first of these several plans of repair mentioned in the annual report of the chief of the Engineer department meets our approbation. Mr. T. here read extracts from the report, in confirmation of his views. He then invited the House to turn its attention to the only question which ought to be agitated in connexion with this bill: Are the estimates of the War Department unreasonable? Is the mode of improvement on which those estimates are predicated, the one which Congress ought to sanction? Mr. T. said, from his personal knowledge of the country, he had no difficulty in answering both these questions in the affirmative. It would, he thought, be useless, worse than useless, to make a defective or partial repair of this great highway. If it is to be done, let it be well done, and in a manner creditable to the United States, and beneficial to the people of the great valley of the Mississippi, for whose particular accommodation it was originally designed.

Mr. T. made some statements concerning the nature of the chief material which had been used in the original construction of the road, to show that we ought to profit by experience, and now use the limestone, which alone was calculated to make the road permanent. He also explained the defective manner in which the road had been originally constructed, and insisted that the Macadam

plan now proposed by the War Department ought to be preferred.

In reply to statements which had been made, showing the large sums of money heretofore expended on this road, Mr. T. appealed to the House, and entreated them not to permit such exhibitions to prejudice their minds. What have we to do with the errors of the administrations which have preceded this? It is certain that Mr. Jefferson's administration committed one error in not providing for the continued repair of the national road in some economical manner. And the administration which succeeded his, erred also in attempting to keep this road in repair by annual appropriations from the national treasury. But are we to permit these things to create a prejudice against the present measure? We now propose to make a good road, to reject the worthless material heretofore used, and then to erect toll-gates to collect a sum sufficient to relieve the treasury from this drain.

What, said he, are we reminded, too, of the very large sum which this road originally cost? He agreed the sum expended was enormous, and was at a loss to know how so much money could have been honestly expended for such a purpose. But are we to refuse an appropriation asked for by the present head of the War Department, solely because his predecessors, or their subordinate agents, under former administrations, have wasted or misapplied appropriations made by Congress. He hoped not. He hoped the House would examine the estimates now furnished, and if they were, as he believed they were, reasonable and accurate, he trusted the whole sum of $652,000 would be given.

Mr. T. said the House need not be alarmed at the suggestion of the gentleman from Tennessee, that this sum would embarrass the Treasury Department. It was now well understood that the receipts from the customs for the year 1834 would exceed considerably the estimated receipts made by the Secretary of the Treasury at the commencement of the present Congress. Besides, the whole sum asked for cannot be expended within the year. It was most probable not more than 150,000 or $200,000 would be actually drawn from the treasury during the year 1834. So that the only difference between the bill from the Senate and the bill, if amended as proposed by the gentleman from Tennessee, would be this: If we make now an appropriation of $300,000 we shall be called upon next year for more money; we shall waste time again in a long debate, and perhaps suffer the repairs to be again suspended. On the contrary, if we sanction the bill from the Senate, we shall place at the disposal of the War Department a sum sufficient to relieve us from all further applications, and accomplish the object which the friends of the road desire.

Mr. SUTHERLAND reminded the House that, when this report had been made, the States had not agreed to take the road; they had, since then, agreed to take it, if in good repair. But if the sum now given should fail to accomplish that end, how could the Government insist on the States taking the road off its hands?

Mr. McKINLEY insisted that the road pertained to the States, and that no condition need be interposed to oblige them to take it. As to the contract with the Western States, it was only to apply two per cent. of the sale of the public lands sold within their limits. This amounted to $371,251, and that was insisted upon to meet an expenditure on this road of $2,175,000. He inveighed against the contract, as a most unholy compact to deprive the new States of a portion of their sovereignty over their own territory They were just born, scarce able to crawl, and yet were forced to walk and to walk alone, too. He insisted that they were sovereign States; and that nobody could hold lands within their jurisdiction. The argument was just the same as had been used in support of the bill for the city of Washington: the city wanted us to make its streets, because it could not tax the United States lands within the city bounds. There were three other new States just as well entitled to this two per cent. fund as the States north of the Ohio. Was the Government going to make another road to their bounds also? He did not find a dollar in the bill for a road to Alabama. He declaimed, with warmth, against the large appropriations already made for the road, and the constant increase of the sums asked for. Gentlemen in the opposition had told him, some time since, that there was to be no money in the treasury; but now these same gentlemen were loudest in favor of large appropriations for roads and canals. Where was the money to come from, if we had no treasury?

Mr. JONES, of Georgia, referring to what Mr. Vance had said of the Cumberland road being the head and source of all the works of internal improvement in this country, observed that, if it was so, this road had been the fruitful mother of an odious offspring. He presumed that the House would hardly bear to hear any thing about the constitutional question involved: they were in fact so conscious of the truth on that subject, that it would only be a reproach to have it mentioned. On the subject of the contract with the new States, if the Government was bound to make them a road, it had done that: the contract, therefore, was fulfilled. The Government was not bound to keep the road in repair. And if the road could not be given away, let the Government lose it, and let them find it: if it was not worth keeping in repair by those that passed over it, it was surely wrong to call on the United States to keep it up. He concluded by moving to lay the bill upon the table.

Upon this question Mr. WHITTLESEY demanded the yeas and nays. It was decided in the negative: Yeas 68, nays 133.

Mr. ADAMS, of Massachusetts, moved to amend the bill by striking out that clause of it which declares that the law is "to carry into effect" the laws of Pennsylvania, Virginia, and Maryland, accepting the road. He considered the clause as not only useless, but quite improper. He declared himself willing to assent to the reduced sum: but equally prepared to vote the whole appropriation reported from the Senate. He considered it a mere question of time, whether the whole sum should be granted by one act or by two. However, as he was ready to vote for any thing bearing even the semblance of economy, he would assent to the amendment. He could not, however, consent to declare that this law of Congress was passed to carry into effect the laws of the States. He did not believe such to be the proper function of the Congress of the United States. It had enough to do to carry its own laws into effect. As to its being a compact, it was one which Congress could annul at pleasure. The assent of Congress to the State laws accepting the road had been expressly declared as continuing in force "during the pleasure of Congress." He now called upon the chairman of the Committee of Ways and Means to say whether any act had been passed, by either of the States concerned, assenting to such condition? The act certainly had no force to create a compact, unless the subsequent assent of the States had been given to it. Of itself it was a mere nullity. The gentleman from Virginia [Mr. Gholson] considered it very doubtful whether Virginia was bound; indeed, he denied that she was bound at all, and so did Mr. A. It could not be pretended that either Maryland, Pennsylvania, or Virginia were bound, by the acts which they had passed, to take this road off the hands of the Government. To what use was it, then, to say that this law was passed, to carry into effect the laws passed by the States? As to the fourth section of the bill, it was one which Congress had no right to pass. They had no right to declare that no more money should be expended upon the road, or that, when what was now given had been expended, the road should be surrender-

ed to the States: for Congress and the States were not yet agreed as to the condition on which it should be surrendered. The clause he moved to strike out, therefore, was not only wholly inoperative but entirely improper, and the fourth section was in violation of the faith of this Government to the States north of the Ohio.

Mr. W. COST JOHNSON regretted, at so late an hour, to throw himself upon the forbearance of the House. He had been told that the States concerned in this road did not feel themselves bound to carry into effect the laws which they themselves had passed. This might or might not be true with regard to other States, but for the State of Maryland, which he had the honor, in part, to represent on that floor, he would say that, when she passed her law of 1832, she meant to hold herself bound by it. She had frequently refused to pass any law of the kind. So late as 1831 she repeated that refusal, on the ground that the General Government, by its compact with the Northwestern States, was bound to keep up this road as a free highway and without toll. But, finding that the Government was very anxious to surrender the road, she had at length yielded her assent, stipulating, however, that the road should be put into a state of good repair. As an honorable and high-minded State, she held herself bound by that agreement, as she did by every other compact into which she had entered. It was now therefore fit and proper that Congress should grant such an appropriation as would at once put the road into such a state as that it might be relinquished to the States through which it passed. It had been said, in a tone of complaint, that the States had not yet erected any gates upon the road; and it had been insinuated that, when surrendered, they would not keep it in repair; but what authority had the States to set up gates upon the road until they knew whether Congress would assent to their acts? Congress had now given that assent; let the road be put in repair, and the States would take care of it. They had the authority of able engineers to say that it would require $600,000 to accomplish this object, and he felt very sure that the State of Maryland, for one, would never accept the road until its repair was complete. Let those gentlemen who are so anxious to have the question settled, vote for the bill as it came from the Senate, and they should never hear of it again on that floor.

The question was now put on the amendment moved by Mr. ADAMS; and, being decided in the negative, the amendment was rejected.

The question then recurring on the amendment proposed by Mr. POLK, the yeas and nays were demanded.

Mr. BEARDSLEY moved that the House adjourn; which was negatived.

Mr. MERCER referred to a report of the Secretary of War, dated in April, 1834, giving the items of expenditure which went to make up the $602,000.

Mr. DICKERSON, of New Jersey, moved an amendment, containing a proviso that no more than $300,000 be expended until the States should assent to the act of Congress agreeing to surrender the road, and to receive $652,000 as a compliance in full with their stipulation for the repairs of the road.

Before the question was taken, the House, on motion of Mr. CRAMER, adjourned.

TUESDAY, JUNE 17.

PUBLIC LANDS.

Mr. CLAY, from the Committee on Public Lands, reported the following resolution, viz:

"*Resolved*, Than the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill to reduce and graduate the price of the public lands; and that said bill be made the special order of the day for Friday the 20th instant."

Mr. ELLSWORTH objected to that part which went to make the bill a special order.

Mr. VINTON said he must concur in the objection, believing that, if the motion prevailed, it would be the means of bringing up the whole subject of the public domain. The present bill, he supposed, being intended as a substitute for that heretofore originated in the Senate in relation to the public lands, was, in fact, a new project submitted for their consideration, and presented at a time when it must be apparent to every one that the lateness of the session, with the pressure of other business, would prevent its having that due attention paid to it to which the subject was entitled.

Mr. CLAY said he had not intended to have made any observations on the subject, desiring rather to leave it with the House to decide, without debate, whether they should take up the bill this session or not. He must, however, remark, the honorable member from Ohio [Mr. VINTON] was mistaken in supposing that the project "was a new one;" because it was a proposition which had been made and renewed at every session for the last ten or twelve years. The present bill was not intended as a substitute for the bill alluded to by the gentleman from Ohio. It embraced, and was intended to affect those refuse lands which had, for twenty years past, been unsaleable at the minimum price fixed thereon by Government. The object of the bill was to graduate and reduce the price to the real value of those lands, so as that they might become available for so much as they were worth to the Government. It did not, then, follow that the whole policy of the Government, (as had been intimated,) in respect to the public domain, would necessarily be brought up. He hoped the resolution would be adopted.

Mr. ELLSWORTH rose to express his belief that there was no subject more deeply interesting than the disposition of the public domain. He knew that it was one deeply interesting to his own constituents; and, knowing this, he regretted that there was not time now left, before the day it was fixed upon by Congress for adjournment, for taking up the subject, so that it could be discussed as such a subject ought to be, gravely and fully. But, in reply to the observations of the honorable member from Alabama, [Mr. CLAY,] "that the bill would only affect refuse or poor lands," he would take leave to say that, if the bill referred to was passed, the public lands would be soon all termed "poor;" and thus the bill would, in a very important manner, be found to affect, and soon, all the public domain. For these reasons he hoped the resolution would not be adopted.

Mr. H. EVERETT, being desirous that the whole remaining time of the House should not be wasted in discussing the class of business which should be taken up, moved to lay the resolution on the table.

Mr. McKINLEY called for the yeas and nays on this motion; which were ordered.

Mr. PATTON moved a call of the House.

The House refused to order a call; after which the question was taken on the motion of Mr. H. EVERETT, to lay the resolution on the table, and decided in the affirmative: Yeas 82, nays 80.

SPANISH WEST INDIA TRADE.

Mr. PINCKNEY asked the consent of the House to offer a motion to discharge the Committee of the Whole from the consideration of the bill reported by the Committee on Commerce, relating to the trade of the United States with the Spanish West Indies, that it might be made the order of the day for Thursday next.

Objections having been made

Mr. PINCKNEY moved a suspension of the rule to enable him to offer it.

Mr. CAMBRELENG remarked that the object pro-

posed to be attained by the honorable member would be retarded instead of advanced by the motion.

Mr McKIM said he was against the project of laying on the large extra duty on Spanish vessels, as proposed by the bill, as he believed it would not be the interest of the country to impose it.

Mr. JOHN Q. ADAMS considered that the motion was out of order, being a proposition to impose a tax which must be first discussed in a Committee of the Whole. He hoped, therefore, the honorable member would withdraw it.

Mr. PINCKNEY was not disposed, he said, to press the motion against the sense of the House, and would withdraw it.

The resolution was withdrawn accordingly.

POST OFFICE CONTRACTS.

Mr. JONES, of Georgia, asked the unanimous consent of the House to offer a resolution for regulating and restricting contracts for carrying the mail, and abolishing extra allowance for any such service, unless when performed by authority of some act or joint resolution of Congress.

Objection having been made—

Mr. JONES moved a suspension of the rule, and said, if the motion prevailed, his object at present was simply to have the resolution laid on the table, and printed, to be taken up hereafter.

Mr. CONNOR, chairman of the Committee on the Post Office, rose to inform the honorable member that as there was a bill reported from the committee pending in the Senate, which covered the whole ground taken by his resolution, and that, inasmuch as many of the matters referred to were already provided for by existing laws, the passage of such a resolution was unnecessary.

Mr. JONES repeated he did not want any discussion, but simply to have the resolution printed.

The House, however, refused to suspend the rule, to enable the resolution of Mr. Jones to be presented.

CUMBERLAND ROAD BILL.

The House then proceeded to the unfinished business of yesterday; being the bill for the continuation and repair of the Cumberland road.

Mr. GILMER moved to reconsider the vote by which the motion of Mr. Polk, to reduce the appropriation for repairing the road, from $652,000 to $300,000 was yesterday rejected.

Mr. STEWART said the friends of the bill would vote in favor of the amendment, if the restriction in the next section should be stricken out. If the supporters of the amendment would intimate their willingness to accede to that proposition, no objection would be made to the amendment.

Mr. HAWES hoped no such intimation would be given. He was opposed to the whole system. Unless an end was put to the log-rolling which prevailed in this House, in relation to internal improvements, it would be necessary to increase the tariff to keep the treasury from bankruptcy. The immense amount of appropriations which had already passed the House, were sufficient, he believed, to exhaust the treasury.

Mr. BROWN said he voted yesterday against the proposition of the honorable gentleman [Mr. Polk] from Tennessee, and, upon reflection, he now thought the vote was wrong. It had been his intention to move for a reconsideration this morning, but it gave him pleasure to find he had been anticipated by the honorable gentleman [Mr. Gilmer] from Georgia. He was not unfriendly to such an appropriation as would finish the road, when he considered the compact made by the Government; but he doubted very much whether the treasury would be able to bear so large an appropriation of the public money for this single purpose, during the present year. He hoped the observations of the honorable member from Kentucky [Mr. Hawes] would not be entirely lost upon the House. He hoped honorable gentlemen would look about them and see where all these immense appropriations will ultimately lead us. He admitted, to a certain extent, the obligation of the Government to complete this road, and he would willingly, at the proper time, vote for such sum as would finish and put it in a condition to be surrendered to the several States through which it passes—and thus rid the nation forever from these continual, and, what seemed to him, extravagant and never-ending expenditures of the public money. Unless he was much mistaken, the friends of the bill admitted that no more than $300,000 could be expended upon the road during the present year, and he therefore, upon reflection, deemed it most prudent to limit the present appropriation to that sum. He should vote for the reconsideration of the motion to amend, and, should it prevail, he would then record his vote in favor of the sum proposed by the honorable gentleman from Tennessee.

Mr. EWING opposed the reconsideration at length.

Mr. HARDIN went at length into an explanation of the obligation resting upon the United States to make this road. Mr. H. expressed his alarm at the amount of the appropriations for various works of internal improvement contained in the bill already reported, which he estimated to be twenty millions. With regard to this road, he thought the $2,500,000 which had been expended upon it, solely to enable Baltimore to compete with Philadelphia, was quite enough. If a road to the West was necessary, why not make a road by White Sulphur springs and the Kenawha, which was a hundred miles nearer? If the friends of the bill were not satisfied with the $300,000 proposed by the amendment, he hoped they would not obtain more by the vote of the House.

Mr. THOMAS of Maryland, said he was desirous to confine himself to the subject before the House; and yet he could not think it amiss if he should briefly touch on some of the topics which had been treated of by the gentleman who had just resumed his seat. If he (Mr. T.) did go somewhat out of his way, he should do so, much on the same principle as the Methodist preacher, who, addressing some backsliders of his flock, exclaimed "Oh, my beloved brethren, if you will wander to the devil, I must wander to the devil after you." What was the question before the House? It was the reconsideration of the vote of yesterday, by which they had refused to reduce the sum in the bill. They were now called on to reverse their judgment, and to consent to this reduction. But, before doing this, what inquiries were to be made? Should they not inquire if this less sum would be sufficient for the end they were aiming at? And to what source should they go for information? Should they take the bold, incoherent statements of gentlemen on that floor, based on no certain grounds, made without data; or, should they go to the estimates prepared by the War Department—estimates made out by skilful and scientific men, employed for the purpose? The question was, would they complete these works, or would they sacrifice all the public money that had been already expended, by letting them go to decay? What was the objection to the estimates laid before the House? If there were any mistake in them let gentlemen point it out, and let it be rectified. The gentleman from Kentucky had said he would not believe the statements in the report, if an angel from heaven should come down and declare them true. He (Mr. T.) required no such evidence. It was sufficient for him that these statements were made out by honorable and high-minded men, and men who were competent to make them out. That report told that it was necessary to bring the requisite materials in some cases fourteen miles. In answer to this, the gentleman from Kentucky had spoken of the quantity of materials at hand on the Alleghany. It was true there was abundance of rock

and other materials, but these were the very materials which the Department had expressly stated were unfit for the construction of this road.

Was it then just, was it candid, to talk of plenty of materials being at hand, and charging it as incorrect that the report stated otherwise? The truth was, the gentleman from Kentucky was opposed to the bill altogether. He (Mr. T.) would here caution the friends of the bill against being led astray by the false lights of gentlemen to vote for the reconsideration of the bill. Even when so amended, these gentlemen would vote against the bill. The gentleman from Tennessee who proposed the amendment, the gentleman from Georgia who moved the reconsideration, and the gentleman from Kentucky who last addressed the House, they would all vote against the bill.

Mr. T. then went into a consideration of the arguments of Mr. HARDIN as to the two per cent. fund.

It was not fair to take, in the basis of his estimate, the fund which accrued from these lands, at the price fixed by the Government. It was due to the Western States, under their compact with the Government, to make a good and permanent road. Had this been done? The statements of the War Department showed that it had not.

Gentlemen had spoken of the immense sums expended on this road for the benefit of the Western States. But it should be remembered that the Western States had exempted the public domains from taxes five years after they became private property. Why did the honorable gentleman object to this road in particular? The party to which that gentleman belonged, were ready to carry roads through any and every part of the United States. He (Mr. T.) was one who was opposed to a system of internal improvement to be carried on by the Federal Government; and he advocated this work, not as a part of such a system, but because Government was bound to do it, in fulfilment of its compact with these States. If they had kept the lands at $2 50 cents per acre, the price fixed when the compact was made, the proceeds of the two per cent. fund would have exceeded all that had been laid out on this road.

But, if the arguments of the gentleman from Kentucky were correct, why not go up to the source, and deny the appropriation for this road altogether? Why select this branch for an object of proscription? Of what use would be the other branches of this road, if this quagmire were not filled up? They would be entirely useless. A few words as to the history of this branch of the road. After Mr. Jefferson's administration had selected Cumberland as the point where this road should commence, the people of Maryland undertook to construct a road from Baltimore to Cumberland, to enable the people of the West with facility to reach the seaboard. They did this under an impression that the compact between the United States and the Western States was to be fully complied with. As the United States had engaged to make a road, Maryland naturally supposed it was to be made permanent. In other words, that some plan would be devised by which it should be kept in repair. Such was the liberal construction given to that contract heretofore by the United States; and hence the large appropriations which have been made from time to time, for repairs on that road, from the national treasury. Maryland therefore felt, and her representatives here feel, that that State has a claim for this appropriation, on principles not connected with the American system. If the Cumberland road should be abandoned, then the investments of the people of Maryland in the road from Baltimore to Cumberland must become very unprofitable. His immediate constituents (Mr. T. said) had, indeed, but little interest, as individuals, in this road; but, as a portion of the citizens of Maryland, they were anxious that justice should be done to that State. Believing the repairs of this road to be constitutional, and called for by compact, he advocated the measure, as one of great moment, and one in which the faith of the Government was implicated. He hoped the House would refuse to reconsider.

Mr. T. desired the Clerk to read the two amendments of Mr. SUTHERLAND and DICKERSON. The friends of the bill (said Mr. T.) were perfectly willing to adopt these amendments; and they were anxious that every guard to the faithful expenditure of the money should be secured. He did hope and trust, then, that the bill would be no longer delayed, but that the House would act upon it at once.

Mr. BURGES expressed his regret that the members from the West should be divided on a question of this kind, and still more that they should so frequently reflect on the Eastern States in respect to the amount of public money expended there in works of fortifications, in the support of the navy, and upon other objects, in which the whole Union had an equal and common interest. This, however, should not influence his vote upon the present occasion. As to the Cumberland road, it was as strictly a national work as the navy or the fortifications. What could be more national than a great highway crossing the whole Union, and uniting the Eastern and the Western States? One gentleman had objected to it as merely intended to bring Baltimore into competition with Philadelphia and New York for the trade of the West. Was this an objection to be urged by a western man? The more competitors there were for western products and western business, the better for the West.

Mr. B. dwelt on the advantages of the road in a political point of view, as tending to diminish local jealousies, increase intercourse, and cherish a feeling of common interest in the Union. Much of the waste of money that had occurred was owing to the imperfect knowledge of road making at the time this work was commenced; but whatever waste might have occurred in other Departments, the country might rest assured that in that of war, to which this road belonged, the public money would always be expended with care and prudence. As to what was called log-rolling, it was nothing more than a mutual regard to mutual interests, and, if applied to laudable objects, was fair and proper.

Mr. B. illustrated the policy of completing this road by the example of a man engaged in boring for water, who was persuaded to go further and further, though alarmed at the expense, and was at length fully remunerated by finding a valuable spring.

Mr. CAMBRELENG, though willing to give a large sum if the Government could be sure of getting rid of this road, feared that object could not easily be effected. He went into a number of statistical statements, in relation to the receipts and expenditures of the Treasury. He said the balance in the treasury of available funds on the 1st of January, 1834, was - - $8,000,000

Estimated receipts for the year, - -		18,500,000
		$26,500,000
Appropriations of 1833, chargeable on 1834, -	$5,200,000	
Estimate of expenditures for 1834, including five millions for public debt and interest, - - -	23,500,000	
	28,700,000	
Less probable amount appropriated, but not expended in 1834, same as last year, -	5,200,000	
		23,500,000
		$3,000,000

To meet all the appropriations which were annually made over and above the Treasury estimates last year, these extraordinary appropriations amounted to three millions and a half. The resources of the year were less on the 1st Januray, 1834, than on the 1st January, 1833, by fourteen millions less in available revenue bonds, and two millions in reduction of duties, which took effect on the 1st of January last.

From these facts, Mr. C. felt himself justified in warning the House to hold its hand, lest they should make the treasury bankrupt, and have gentlemen coming to the House next session with a grave story, laying the whole blame on the President and his Secretary. He exhorted the House to a system of substantial retrenchment, and insisted that this was the time to adopt and enforce it. He deprecated the course which had too often been pursued of making appropriations as matters of political and party emulation. He was willing to appropriate for this Cumberland road, but insisted on the necessity of laying down some rule to restrict the expenditures of Government. He thought it would be well to establish a limit in respect to other subjects of expenditure, as had been done in respect to the navy. Let Congress name a definite sum that should be applied to fortifications, another for roads and canals, &c. This was the only mode to check extravagant applications of public money, and guard the treasury from bankruptcy.

Mr. CHILTON would vote for the bill if reduced as had been proposed, otherwise he must vote against it. The pledge of never asking for more, if the sum now asked were given, might impose upon new members of the House, but it had been too often repeated to have any effect upon old ones. The appropriations had been constantly increasing, and Heaven only could tell when they were to cease. The road had cost millions, and was this day a quagmire. Now it was a plain sum in the rule of three, and might be stated thus: If the road, after fifteen years' appropriations, constantly increasing, was now a quagmire, what would it be, at the same rate, in fifteen years more?

The gentleman from Rhode Island had lamented much over the disunion of the western members. Now, Mr. C. dared not say that that gentleman did not know every thing, because, if he should, the gentleman would turn round and castigate him, as he was in the habit of doing other members of the House; but he could tell the gentleman that, as for that part of the road west of the Ohio, he would never find men more united than were the western members. But he must not expect that members from Kentucky, a State which had poured out its blood and treasure in defence of the General Government, but in which the very first dollar had not yet been expended from the treasury on any work of public improvement, should stand quietly by and see vast sums lavished improperly, because the road upon which they were to be expended ran towards the West.

Here Mr. EWING interposed, and said that as to the castigation administered by the gentleman from Rhode Island, the gentleman had his thanks for it. He, for one, had never objected to the money expended on fortifications, and he thought the castigation well deserved. If Kentucky had received no money, she had at least received land from the common fund of the Union. As to money, Indiana was equally unfortunate.

Mr. CHILTON resumed, disclaiming any bad feelings towards other States. If the gentleman from Indiana was fond of receiving the lash, the gentleman from Rhode Island had his permission to lay it on. But when the gentleman from Rhode Island had been applying it to the western members generally, for not agreeing among themselves, Mr. C. could not help thinking about a certain little State to the eastward, whose two repretentatives on that floor did not present the most impressive example of perfect unison. After some reflections on the comparative reliance to be placed on the estimates of practical and of merely theoretic men, Mr. C. said he should risk a vote against the bill, unless the proposed reduction should be made. Though this was a western measure, and he a western man, he could not consent that all the money for the West should be expended in one spot; and, if the high-pressures ystem was still to be kept up, the country would have to resort to direct taxation, and that of the most pinching and grinding sort. The tariff would never supply the sums that would be needed. It could be shown that this one road had cost the nation ten per cent. on the whole amount received from the public lands. To such a scale of expenditure he would never give his consent.

Mr. DUNCAN expressed great surprise at the course pursued in the debate by several gentlemen from Kentucky; it was the last place in the world he should have looked for opposition to the national road. The sum proposed to be stricken from the bill was for repairing the road east of Ohio, in which Kentucky had as much interest as any other Western State; and he could not see what motive could induce a citizen from the West to desire the destruction of the only road connecting the great valley with the Atlantic, which they could claim as their own, and use independently. The gentleman from Kentucky [Mr. Hardin] had used many arguments with the view of bringing this road into disrepute; but, from some expressions, it appears very clear to my mind, if the Maysville branch of it had not been vetoed, the gentleman would be as firm a supporter of the road now as ever. Here Mr. D. commented at some length on the speech of Mr. Hardin, in which, he said, there were many errors of calculation, both as to the amount of land owned by the Government in the new States, and the donations, grants, and favors, which they had received. He denied that the new States had ever received any favor from the Government that had not been paid for in the surrender of their right to tax the public land. In Illinois this tax would amount to about $480,000 per annum, which was more than all the lands ever granted to that State were worth. One of these errors was in charging the new States with the sixteenth section, set apart and granted to the citizens of each township for the purposes of education. This had been set down by the gentleman as a tax of ten per cent. upon the whole public domain, in favor of the new States. Nothing, he thought, could be more fallacious. They were not given to the States or to any one else. The sixteenth section had been set apart in each townsbip before the sales; and the people were told, if you will purchase land of the United States at $1 25 per acre, you shall have an interest in the sixteenth section, for the education of your children; so that this was no more of a donation to the States or people than the proprietor of a town makes of the streets and squares he lays off as an inducement for men to purchase and improve his lots. Much had been said, by those opposed to this road, of its great cost, and of the Government having already expended sums far beyond the obligation imposed by the compact. As to the cost, it was nothing, he said, when compared with the benefits of the road. As to the compact, it was a fair and legitimate argument in favor of going on with the road: as it would be worse than folly to say the Government was to begin and then abandon such a work, under a technical construction of an ordinance. But he did not rely upon the compact as the only obligation on the Government to make this or any other road. It was a high, a vital object, to connect this almost unbounded country by roads and public highways, and especially was it the duty of Government to overcome great natural obstructions—such as separates the West from the Eastern sections of this country. Such improvements would make us a united, prosperous, and happy people;

and he was utterly astonished to find such opposition, and from such a quarter, to this favorite work of the West. He asked who would not pronounce the farmer insane who would throw obstructions in his own road to market? And where was the difference between such an act and the objections raised by western men to this road?

Mr. PARKS said it was now many years that the House had been hearing of this Cumberland road; and every time they heard of it, they were assured that that was to be the last. It had been stated, he did not know with what correctness, that 132 miles of this road had cost the Government two and a half millions of dollars. According to estimates, which remained uncontradicted, the expense amounted to $19,774 per mile! Now, he would only call the attention of the House to a few plain facts, which went to show the expense of making a good road in his own State. In consequence of some difficulty between the United States and the Government of Great Britain as to the true northern boundary of the State of Maine, (and consequently of the United States,) a fort had been established in an uncultivated wilderness, seventy miles from any inhabitant. The transportation of provisions to this post in the winter time, had at that time cost $120 a ton. It was at length determined to make a road from the settlements to this point. It ran through a tangled, uninhabited wilderness; and every ounce of provisions consumed in its construction had to be carried to the spot; some of the pork having been brought all the way from Ohio, by the way of New Orleans, to Bangor. Under all these circumstances a road had been constructed, which, for forty miles, was fully equal to the Pennsylvania avenue, at the expense of $2,021 per mile. He had himself passed over the road the last autumn; and he assured the House, upon his honor, that such was the fact. It was not, indeed, a Macadamized road; but it was as good for all the uses of a public highway as it need to be; and the State was ready to take it off the hands of the Government and put it in complete repair for $6,000 a mile. As to this Cumberland road, if the Government was indeed bound by contract to make and keep up a road to the Western States, the best and cheapest mode would be to make a new road entirely by the side of the old one. The 132 miles of road could be constructed for $266,000. The only end for which such an enormous sum was asked must be, that the money might be squandered in the neighborhood, to benefit gentlemen's constituents. He thought if any one thing under this Government demanded reform, it was this eastern end of the Cumberland road.

Mr. VANDERPOEL said that, though he had voted for the larger sum proposed, he thought it his duty, on reflection, to vote for reconsideration. He was not opposed to the road, nor did he repent of the expenditure of public moneys upon it; but he must think the amount now asked was too large. He had no constitutional scruples on the subject; on the contrary, he thought that every principle of justice and expediency demanded the construction of such a highway between the Eastern and the Western portions of the Union. The State of New York had constantly been engaged in the construction of roads and canals, and had never expended any thing like such sums in proportion. The Chenango canal, extending ninety-six or one hundred miles, with with all its locks and all collateral expenses, had cost but a million. He must be permitted to say that, if the sums expended on this portion of the Cumberland road had been put into the hands of his Yankee friends, he had not a doubt that they would, for that sum, have constructed a perfect Appian way across all the mountains of New England. He should vote for the $300,000; but, had he been opposed to the bill, he should certainly have never been converted from his opposition by such speeches as that of the gentleman from Ohio, [Mr. VANCE.] If the measure was to be advocated in such a spirit, the road, could it speak, might well exclaim, in the words of the Spanish proverb, "Save me from my friends!" He had heard much, and every body had heard much, of the prodigality of this administration. The Executive had been made the universal scape-goat for all the national sins. But the gentleman who declaimed so eloquently against the extravagance of the present Government could vote with the utmost coolness to add $600,000 at a clip to the public expenditure, and that for an object which had already consumed millions. What had New York done to merit the manifestation of such a spirit as had marked the speech of the gentleman from Ohio? When she had had her great canal in contemplation, she had applied to the General Government for aid; and she had received none. She had, since that, accomplished, without it, a work that was justly the pride, not of that State alone, or of the Union only, but of the age. And what had she seen since? An attempt by the General Government to make her canal-boats the subject of custom-house taxation. The Government had had the magnanimity to say we will afford you no aid to construct your canal; but, when you have completed it from your own resources, we will tax it for our revenue. It was the fortune, or rather the misfortune, of New York to boast of a population of nearly two millions, possessed of immense resources: and what had she received from the General Government? 3 or 4,000 dollars for a little road to Sackett's harbor, to transport the guns of the army; and the erection of a custom-house to receive a large portion of the revenues of the whole country. He could not esteem it just or generous in the gentleman to allude, in the spirit he had manifested, to the money spent on the State of New York. And he could not but repeat the expression of his deep regret at the tone and manner of the speech. It was illiberal and uncalled for.

Mr. BEARDSLEY said he was not in the habit of speaking about the New York delegation. He trusted that they possessed a character that would exempt them from the necessity of saying any thing upon the subject. As to the remarks of the gentleman from Ohio, he had heard nothing from that gentleman to which he had any thing to object. He hoped the debate would be brought to a speedy conclusion, and that the course of the public business would not be impeded by discussions respecting the course pursued by the delegation of any State.

Mr. McKENNAN said that, although the very existence of the prosperity of his constituents depended upon the completion of the repairs of this road, yet he had studiously avoided entering into a protracted discussion of the subject, knowing the importance of the time of the House, and its impatience to have a vote on the question. He had not now risen to make a speech, but to make a very few remarks, which were called for by the violent attack which had been made upon this road and its interests. He said it would be remembered, by those with whom he had the honor of serving in the last Congress, that it was on his motion the amendment was adopted in the appropriation bill, two years since, appropriating one hundred and fifty thousand dollars for the repair of this road, under the laws of Maryland and Pennsylvania agreeing to take the road off the hands of the General Government, and in future to save the treasury of the United States from the continual drain for that purpose. He wished now to state to the House that not one dollar towards the substantial repair of the road had yet been laid out in his district—forty-four miles of the road had been untouched. He had urged the Department to apply a portion of the two former appropriations to the repair of that part of the road; but the plan of making a thorough repair, commencing at Cumberland and going west, so as to get up the toll-gates as soon as possible, was adopted, and his wishes and the wishes of his con-

stituents were defeated. Their claims were postponed; and there is too much reason to believe that, if the efforts of the chairman of the Committee of Ways and Means [Mr. POLK] should be successful, to limit the whole expenditure to three hundred thousand dollars, that that part of the road which lies between the Monongahela river and the Virginia line will not be touched, or, at all events, will not be repaired in such a manner as to justify the commissioners appointed under the law of Pennsylvania, to receive it from the hands of the Government. So far as the Department has gone, it will be impossible to change the plan which has been adopted. The greater part of the road, from Cumberland to Brownsville, has been taken up, and they must proceed to complete the repair according to the plan they have adopted. A brief statement of the condition and progress of the repairs will show this. In Maryland ten miles have been finished; nine miles have nine inches of metal; six miles six inches; ten miles are graded, and most of the materials are on the ground to complete it; making, in the whole, thirty-five miles. In Pennsylvania twenty-two miles are finished; thirty-one and a quarter miles have nine inches of metal; two miles have six inches; eleven and a quarter miles, four and a half inches; the whole of the balance graded, and most of the materials are on the road, to complete it to the Monongahela river. In Virginia nine miles have been taken up and partly repaired, much masonry and walling have been done, and materials collected.

This statement has been furnished by the Engineer department, and will be found correct. It will be readily seen, then, that the plan of repairing that part of the road which has been commenced cannot now be altered; it must be completed as it has been begun; and a recurrence to the detailed estimate, which has been laid upon the tables, shows that the whole $300,000, to which it is proposed to limit the appropriation, will be required to complete, in a proper manner, what has been commenced, and is still in an unfinished state. He begged to refer to that estimate, as furnishing the only safe basis of calculation to the House in making the appropriation. It is made out by Captain Delafield, who is an intelligent, skilful, and experienced engineer; has been for two years employed upon the road, and must be presumed to be acquainted with the prices of labor, of materials, and of the difficulty of procuring them, and with every thing connected with the prosecution of the work. Surely, vastly more reliance is to be placed upon his opinions and upon his estimates, than upon the wild conjectures and crude notions of either of the gentlemen from Kentucky, [Mr. HARDIN and Mr. CHILTON,] who had, to his astonishment, felt it their duty to join the enemies of improvement in declaring war upon this road. He could not refrain from expressing his surprise at the course they had taken, inasmuch as the State of Kentucky was as much if not more interested in keeping up the line of connexion between the Atlantic cities and the Ohio river than any of the Western States. They had undertaken to pronounce every thing connected with this repair as extravagant and monstrous; and they did so without having the means of forming a correct judgment as to the expense of materials, and the difficulty of procuring those of a proper quality throughout the mountainous region. For one, he said, he was not disposed to yield his assent to their sweeping denunciations of the officers who had been employed in this service, and whose means of correct information, upon which the House could rely, were vastly superior to theirs.

He begged leave, then, to refer to the detailed estimate which has been submitted by the Department, as furnishing the only safe data of calculation upon which the House could act. He asked gentlemen to take that estimate and point out its errors. It is minute and particular; divides the road into sections; shows the quantity and kind of materials necessary to complete the repair; the price of quarrying, hauling, breaking, and laying them on the road; the sums necessary for graduating; the amount and price of masonry, &c. It will not do to condemn it by sweeping denunciations of extravagance.

From this estimate, it seems that it will require $55,000 to complete the section from Cumberland to Frostburg; $152,000 to complete that part lying between Frostburg and the Maryland line; $47,000 from the Maryland line to the western base of Laurel hill; $58,000 from Laurel hill to the Monongahela river, including the bridge over Dunlap's creek; and $70,000 to finish that part of the road lying between the Virginia line and the Ohio river.

With these facts staring them in the face, he would ask the House how they would undertake to limit the appropriation to the sum proposed, which would fall short of completing the parts referred to, and would leave forty miles of the road through his district untouched? He would appeal to the liberality and justice of the House on behalf of his constituents, and trusted the appeal would not be made in vain. But further: as a matter of economy, the sum proposed in the bill from the Senate ought to be appropriated. Until the work is fully completed, the Government of the United States cannot be relieved from the burden of the road. He would not for a moment harbor the idea that the representatives of the people would abandon a work upon which so much money had been already expended, and the benefits and advantages of which had been tenfold more than all that it had cost. They would not, surely, permit a road to go to destruction upon which the great mail is carried twenty-eight times a week, and which forms the line of connexion between the Atlantic and the extensive valley of the Mississippi. Unless, then, a sufficient sum be appropriated to put the road into a good state of repair throughout, it will not be taken under the care of the States; toll-gates will not be erected, and it must be kept up by the funds of the Government. From this burden the friends of the road wish to relieve the treasury, and a strict regard to economy requires that we should not stop till the repairs are fully completed.

He therefore implored the friends of internal improvement, and of this great work, as well as all those who wish to relieve the treasury from any future drafts upon it, to resist the attempt which is now made to reconsider the vote of yesterday.

No apprehension need be entertained by those who are afraid that the funds in the treasury will not meet the expenditures for the present year. The whole sum of $652,000 cannot be profitably employed, and it is not proposed to draw from the treasury more than $300,000 during this season. And, in order to remove all apprehensions from the minds of some that the States of Pennsylvania and Maryland will not accept the road, from the hands of the Government, even if the sum contained in the bill should be appropriated, he would state that the friends of the work were perfectly satisfied to accept the amendment offered by the gentleman from New Jersey, [Mr. DICKERSON,] which provided that 350,000 dollars of the sum appropriated should be retained in the treasury till those States shall agree to accept that sum in full of the amount which may be required to complete the repairs, according to the requisitions of their respective acts. He did not consider it necessary, inasmuch as it was the interest as well as the duty of the commissioners who have been appointed by those States to accept the road and proceed to the erection of toll-gates so soon as the road is placed in good travelling condition. But, to place the matter beyond all doubt or question, the friends of the measure were perfectly willing to accept of the amendment before referred to.

He concluded by repeating a hope that the vote would not be reconsidered, but that the appropriation of $652,000 would be permitted to stand.

Mr. HARDIN opposed the appropriation, and went into a constitutional argument to prove that the General Government had no right to construct any road within the territory of the States, save for military purposes or the conveyance of the mail. He repelled the charge of inconsistency, and insisted that the interests of the West called for no such road to an eastern market. If a wall could be built between the Eastern and Western States, as high as the Andes, then the products of the West would all go to New Orleans, where the God of Nature intended that they should go. The great evil, at present, was that, while their exports went to the South, their imports came from the East. He inveighed against the extravagant cost of the road, and compared it with that of the Guyandotte road through Staunton, the whole of which had cost but $200,000.

Mr. LOVE made some further explanations in reply, which he concluded by observing that he would allow to the advocates of strict construction twenty years to go upon their principles, after which he was well persuaded they would return to the way of their fathers.

Mr. THOMAS replied to Mr. CAMBRELENG, and insisted he was not authorized to characterize the bill under consideration as one which proposed extraordinary appropriations, or as a measure to be classed with the bills on the table for the benefit of the District of Columbia. The latter had their origin in the committee of this House, and were not, of course, included in the estimates of public expenditure for the year 1834, which had been sent to us by the Secretary of the Treasury in December last. Neither were they founded on estimates from either of the other Departments of the Government. But, sir, what are the facts in relation to the bill before us? It provides for an appropriation of $652,000 for the repair of the Cumberland road east of the Ohio; and an appropriation of $450,000 more for the continuation of the same road through the States of Ohio, Indiana, and Illinois. Both these sums are founded on estimates from the War Department. The gentleman from New York is, then, not correct when he places the bill we are examining in the same class with those by which Congress proposes to relieve this oppressed District. He has committed another mistake, by saying that no part of the sum of $1,102,000 contained in this bill is included in the estimates of the Secretary of the Treasury of expenditures for the year 1834. Mr. T. said he had the estimates of the Secretary of War in his hands. We there find the following sums required:

For continuing the Cumberland road in Ohio, west of Zanesville, - - -	$200,000
For continuing the Cumberland road in Indiana,	150,000
For continuing the Cumberland road in Illinois,	100,000
	$450,000

This sum of $450,000 is included in the estimates of the Secretary of the Treasury, and in the $1,102,000 proposed to be appropriated by this bill. The inaccuracy of the gentleman, therefore, in this particular, is obvious; and his effort, by this means, to embarrass the friends of this bill, must be abortive. The attempt he has made to prejudice the House against this bill, by awakening an apprehension that the receipts of the treasury will be inadequate to meet contemplated expenditures, would, Mr. T. said, be equally unavailing.

The available funds in the treasury on the 1st January, 1834, amounted to - -	$7,983,790
The receipts into the treasury from all sources, during the year 1834, were, in the annual report of the Secretary, estimated at - - - - -	18,500,000
To which the report of the Secretary of the 16th of June, instant, authorizes us to add	2,500,000
	$28,983,790

From that sum, if we deduct the amount required for ordinary expenditure in the year 1834, viz:

For payment of public debt, -	$4,995,082	
Civil, foreign intercourse, and miscellaneous, - -	2,597,285	
Military establishment, including internal improvements, -	7,997,630	
Naval establishment and marine corps, - - -	3,551,073	
Revolutionary pensions, -	3,000,000	
		22,141,070
		$6,842,720

And we have $6,842,720 to meet such appropriations as Congress may think proper to make, for what the gentleman terms "extraordinary purposes." Of that sum, the friends of this bill ask only for $300,000, to be expended in the year 1834; and, in justification of this request, they exhibit, he repeated, not the crude calculations of members on this floor, but the estimates and calculations of the Department of War.

Mr. POLK, in reply to Mr. STEWART, insisted that, if $200,000 was all that was needed during the present year, it was unreasonable and improper to call for an appropriation of $600,000 at this time. As to what had been said with regard to the prospects of surplus revenue, gentlemen ought to look at the other side of the account, and consider what vast sums had already been appropriated by the legislation of the House. The bills which are already passed, exclusive of the Indian annuities, amounted to upwards of $9,000,000. The annuity bill would make the amount over $12,000,000. Then, $3,000,000 more would be required for the pensions under the act of 1832; then the fortification bill called for $900,000; the old harbor bill near $1,000,000; besides which, there was the new harbor bill, the light-house bill, the bills for territorial expenses, besides $5,000,000 to meet the public debt payable on the 1st of January next. Let any man make the calculation, and he would find that the appropriations were like to exceed the receipts of the Government. Why, then, lock up these $600,000, when $200,000 was all that could be expended this season? Gentlemen must not debate this bill as if it involved the issue of internal improvements or no internal improvements. It was merely a question as to sum and time. He hoped the reconsideration would prevail.

Mr. WAYNE was aware of the manner in which this road had become so burdensome to the Government, and feared that they should not very readily get rid of the burden. He admitted the propriety of appropriating, but could not consent to the larger sum asked. He quoted the report of the chief engineer, to show that the whole sum could not with advantage be expended this season. He called upon the House to be cautious; reminded them that it was but six months till there would be another session of Congress, and thought it would be proper to insert a condition that the States should agree to take the road as soon as the sum estimated by the chief engineer had been applied. He noticed that, although the completion of the road west of the Ohio was to be placed under the inspection of an engineer of the United States, the bill contained no such provision as to that portion of it which lay east of that river. He quoted documents, to show the miserable manner in which the road had been constructed in Indiana and Illinois.

Mr. ASHLEY explained on that subject, and stated the utter incompetence of the persons who had been employed to construct that part of the road.

Mr. WAYNE, after some further remarks, concluded by recommending that the smallest sum be now appropriated that would be sufficient to carry on the work until the next session of Congress.

Mr. PEARCE, of Rhode Island, after adverting to the great length of the debate, demanded the previous question; which was seconded without a count.

The previous question was accordingly put and carried; and the main question, which was on reconsidering, being put, Mr. DAVENPORT demanded the yeas and nays.

Mr. THOMAS moved a call of the House, but it was negatived; and the question was decided by yeas and nays, as follows: Yeas 101, nays 96.

So the House agreed to reconsider.

The question was then put on Mr. Polk's amendment, reducing the appropriation to $300,000, and agreed to.

Of course, the amendments moved by Mr. Sutherland and Mr. Dickerson, of New Jersey, fell, having nothing to which they would apply.

Mr. McKENNAN now moved to strike out the words "for the entire completion," and also to strike out the fourth section of the bill.

Mr. ELLSWORTH said he had been in favor of giving 600,000 dollars, provided the road was then to be taken off the hands of the Government. He was now unwilling to appropriate without knowing when there was to be an end. He could not give even the reduced sum without the limitation; and he should therefore be constrained to vote against the present amendment.

Mr. GHOLSON thought that this was the time to ascertain whether Congress meant to persevere in appropriating for this road, or would now yield it up to the States. He therefore wished to move an amendment to the amendment; but which the Chair pronounced to be not now in order.

Mr. ADAMS called for a division of the question; and, it being divided accordingly, the question was first put on striking out the words "for the entire completion."

Mr. BEARDSLEY said he had voted against the reconsideration, but he could not vote for the present amendment.

Mr. McKENNAN demanded the yeas and nays, observing that, if the proposed words were stricken out, the bill would then be in the form in which the Committee of Ways and Means had reported it.

The question was then put, and decided, by yeas and nays, in the negative: Yeas 93, nays 115.

The question being on striking out the fourth section of the bill, Mr. GHOLSON now offered the following amendment:

"That, from and after the expenditure of the money herein appropriated, all jurisdiction and authority whatever, heretofore claimed for the Federal Government over or in relation to the said Cumberland road, be, and the same are hereby, for ever surrendered and abandoned."

Mr. VANCE said that this section had been added, under the expectation that $600,000 was to be appropriated. The House had agreed to give but half that sum. They might retain the section if they pleased. All he knew was, that $300,000 would never complete the road, and he felt very certain that the States would not, in that case, agree to take it off the hands of the Government.

Mr. GHOLSON said that several of his friends had suggested to him that the amendment he had proposed was, in effect, equivalent to the section at present in the bill; but in this they were mistaken. The section did not repeal the act of Congress of 1832, which act had declared that Congress might reassume its jurisdiction over the road, if the States should not, in its judgment, act wisely in their management of it. His amendment did repeal this act. He was for doing nothing by indirection. His meaning was, and he openly declared it, that Congress should abandon and for ever surrender this road. If the States were to take it, let them take it with that understanding, and not, on any condition, that their acts were subject to the supervision of Congress. Mr. G. would not now enter into the argument on that subject. He forebore, in consequence of the lateness of the hour, from doing any thing more than merely offering the amendment.

Mr. BEARDSLEY approved the principle of the amendment, but thought that it did not go so far as he desired. He had drawn up an amendment, which he would offer if this should fail, declaring that Congress does unconditionally assent to the acts of Maryland and Pennsylvania.

Mr. W. COST JOHNSON said that he would vote for the amendment, if the amount appropriated were adequate to fulfil the condition on which alone Maryland had agreed to take the road, viz: that it should be put in perfect repair; should be examined and approved, and furnished with toll-gates and toll-houses. But being convinced that the amount was inadequate, and that his State never would take the road unless more should be done, he was constrained to vote against it. The law giving her assent at all had not been passed without great difficulty, and he was well assured that her assent would never be yielded to receive the road in a state of imperfect repair.

Mr. ELLSWORTH objected to the amendment, because it contained the implication that, in its preceding acts concerning this road, Congress had been guilty of a violation of the constitution, and that the General Government had no power, under any circumstances, to construct a road in a State, even for military purposes or the transportation of the mail. Such an implication unnecessarily embarrassed the bill.

Mr. MERCER objected to the use of the word jurisdiction, as employed in the amendment. He had always thought that the United States Government possessed a qualified jurisdiction over every foot of the territory of the Union, and beyond it to a certain distance on the sea. But the amendment denied any jurisdiction of any sort, and involved the doctrine that the Government could not punish any crime, not even treason, if committed on any portion of this road.

Mr. GHOLSON, in reply, denied any averment that all the Government had done respecting this road had been done in violation of the constitution. The amendment only went to relinquish all the authority which had been claimed. As to the criticism of his colleague, it was astonishing to him that the acute mind of that gentleman did not perceive the distinction between jurisdiction over crimes and jurisdiction over a road. The jurisdiction referred to in the amendment was that over the road alone, which might be relinquished without, in the slightest degree, impairing the criminal jurisdiction of the Government. The amendment of the gentleman from New York [Mr. Beardsley] applied only to one portion of the road, his own to the whole.

Mr. EWING said that the subject had now arrived at its crisis, and he should now offer a resolution, recognising the compact of the General Government with the States of Ohio, Indiana, and Illinois, and denying its right to surrender the road, unless completed to the satisfaction of all the States concerned. Mr. E. presented to Congress a serious question which might arise, and which it was necessary to have clearly understood, lest the faith of the Government should be forfeited, and injury committed. Gentlemen had talked of constructing a road for $4,000 a mile. All he insisted on was, that the road should be placed in perfect repair. If gentlemen could do this for $4,000 a mile, he had no objection. He denied the right of the Government to relinquish the road, unless by a new compact with the Western States. If the Government would make a new bargain, and give up its right to hold the public lands untaxed, good and well; it was just what he desired. The States would then have their own soil, without begging any part of it as a boon from Congress. They were not beggars by habit, and

fewer beggars were to be found at the West than were to be found in this District. Mr. E. predicted that the veto doctrine would pass away, that the road to Buffalo would yet be constructed, and that the day would come when the representatives of the people would glory in having constructed it. The gentleman from Kentucky [Mr. HARDIN] might now withhold his aid; but he might hereafter reflect upon his vote with less satisfaction. A contract and bargain had been made and sealed with the Western States for the right of highway, and they had given up the taxes to obtain it. If our side of the bargain was to be relinquished, the other must also. For such a measure, he would go heart and hand. If the gentleman from Virginia would vote for Mr. E.'s resolution, he would vote for his amendment.

Mr. GILMER inquired of Mr. GHOLSON whether an amendment to this effect would not suit him better than that he had offered? That, as soon as the sum appropriated should have been expended on the road, the United States would thenceforth cease to interfere with the jurisdiction and right of soil of the States through which the road passes.

Mr. GHOLSON said he had no choice between the amendments—either would meet his wishes.

The question being on the amendment proposed by Mr. EWING—

Mr. McKIM moved the previous question, which was seconded: Ayes 102.

The previous question having been put and carried, the main question, on ordering the bill to its engrossment, was carried by yeas and nays: Yeas 127, nays 72.

So the bill was ordered to be engrossed for its third reading.

WEDNESDAY, JUNE 18.

PUBLIC LANDS.

Mr. DICKERSON moved that the House reconsider the vote by which the bill to reduce and graduate the price of the public lands was yesterday laid on the table.

The bill and amendments thereto having been read—

Mr. PATTON said that it was perfectly manifest there was not time now left to consider the various projects connected with the subject of the public lands, and which must inevitably come up in discussion if the House should rescind their vote by which the subject was laid on the table. It was a question admitted to be of importance to every State in the Union, and he thought was therefore of too much importance for the House to be dragged into a discussion upon at the heel of the session, when members were but too generally unwilling to tolerate the deliberation and discussion which it was all-important to give it. He therefore moved to lay the motion to reconsider on the table.

Mr. WILLIAMS, believing this to be a most important question, and one upon which it was necessary to have a full and distinct expression of the opinion of the House, moved a call of the House for that purpose; which was ordered, and the House was called accordingly.

The motion to lay the motion to reconsider on the table was decided in the affirmative: Yeas 111, nays 87.

So the House refused to reconsider the motion to lay the bill upon the table.

Mr. SEVIER expressed his hope that the bills in relation to the Territories would be taken up, that they might be passed upon, and those which were approved be sent to the Senate for concurrence.

Mr. POLK desired to have the appropriation bills proceeded with.

Mr. SEVIER said there was little doubt that, as the appropriation bills were of general interest, they would certainly be taken up before the adjournment; whilst those relating to the Territories, being of local interest, would be neglected.

Mr. POLK objecting—

Mr. SEVIER entreated the House to consider that, if these bills were now passed by, as the bank or deposite bill would have to be acted upon after the appropriation bills, any postponement now would have the effect of a perfect veto on all the bills in relation to the Territories.

The House, however, on motion of Mr. POLK, suspended the rule for the purpose of considering the appropriation bills.

HARBOR BILL.

The bill making additional appropriations for certain harbors, and removing obstacles in rivers, for 1834, was then taken up. Several verbal amendments made in Committee of the Whole on the state of the Union having been concurred in,

Mr. HUBBARD moved that the House should not concur in an amendment increasing the appropriation for the removal of "the raft" or obstruction in the Red river from $30,000 to $100,000.

Mr. POLK, chairman of the Committee of Ways and Means, opposed the amendment. The House had heard a letter from the superintendent of the work, in support of the motion of the member from Louisiana; but it would be borne in mind that that was a letter addressed merely to a private member of the House. No such communication had been made by the Department to the Committee of Ways and Means; nor had any such sum been recommended to Congress by that Department. He called upon the House to keep down the amount of money to be appropriated by this bill, and not to swell it by adopting every suggestion made by members for objects in which their own constituents might have a peculiar interest. It had been too often the practice in times past to load down the harbor bill in this manner, so as to endanger, if not entirely prevent, its passage. The Department had set down the amount required for this object of expenditure at $25,000. The committee, however, in consequence of representations made to them, had concluded to exceed that amount somewhat, and had inserted $30,000 in the bill, as by them reported to the House. It was now asked, on the authority of a private letter, at once to swell the sum to $100,000. He hoped the amendment would not prevail, and that it would not be made an occasion of prolonging the debate.

Mr. HAWES said that he hoped that that portion of the House which was desirous of seeing the removal of this raft completed, and who did not wish to see Congress called upon year after year to make fresh appropriations for this object, as had been the case with the Cumberland road, to concur with him in supporting the amendment now proposed. Did gentlemen forget the important fact which had been stated and explained by the gentleman from Louisiana, [Mr. GARLAND,] that this raft was increasing at the rate of three miles every year, by the accumulation of floating timber at its upper extremity? Loss of time, under such circumstances, was loss of money. The work to be done was increasing every hour. From the explanations which had been given it was clear that, of the $30,000 proposed in the bill, not more than $15,000 would or could be expended upon the work itself, the rest being necessarily consumed in the preparations unavoidably necessary beforehand. Whether the men worked at the raft a longer or a shorter time, they had to be collected and transported from a great distance to the spot. If the $100,000 now asked for should be granted, that sum would be sufficient to open a passage quite through the raft, and the accumulation of timber above would immediately cease. But, if the sum proposed by the committee should be all the House allowed, the same work, from the delay, the ac-

cumulation of more timber, and the repetition of the expense of collecting and transporting hands, would probably cost the Government not less than $200,000. By this short-sighted saving, the country would have to pay double for the same benefit. The Government must be the loser. Had it not been shown that, by the expenditure of this $100,000, the Government would gain millions from the body of land drained and brought into market? He hoped, therefore, the friends of economy in the House would vote the sum at once, and be done with it.

Mr. VINTON said that he had voted for this amendment in Committee of the Whole, but he should now vote against concurring; and, lest this might be considered as an evidence of inconsistency or fickleness, he begged, in a few words, to state the reasons which had occasioned this change in his determination.

The effect of this improvement, when carried to completion, would be to throw open 70 or 100 miles of country to sale and settlement, which was now overflowed and uninhabitable. This vast tract would be opened in a new and wild country, where there were no inhabitants, and which lay on the utmost verge of settlement, beyond the range of population as now existing. Under this view he had voted for the increased appropriation; because, if this work of clearing out the channel of the river was to go on at all, it might as well, and better, be done at once than protracted for years. On making inquiry from gentlemen who possessed the local knowledge, he had learned that the country immediately above this raft contained one of the finest bodies of cotton lands in the world; and he had become satisfied that these lands, when drained and exposed to sale, would bring from $8 to $15 an acre, and thus pour into the treasury a very large amount of money, perhaps ten millions of dollars. But, since the bill had been up in Committee of the Whole, the House had passed another bill which had entirely changed the whole aspect of the subject, and had removed every motive which had induced him to vote for this appropriation. He alluded to the bill granting the right of pre-emption to actual settlers, or squatters, on the public domain. And he did not now hesitate to believe that, should this raft be removed, and that rich body of cotton lands be thrown open to the sun, every acre of the entire tract would immediately be taken up at the minimum price. No sooner would an acre of this rich soil be drained, than that instant there would be a squatter upon it, claiming the right of buying it at the Government price. Did any gentleman remind him that the pre-emption law was limited in its duration? He knew it was limited. But, did gentlemen, did any gentleman, seriously believe that it would not be re-enacted, and continue to be re-enacted from year to year, so as, in fact, to be perpetual? Was not the principle openly justified? And would not the arguments for it be as good one year as another? The squatters were favorites with some gentlemen in that House, and always would be.

He therefore repeated his prediction, that the moment this country was at all accessible, it would be penetrated in all directions by adventurers, who would be stimulated by the hope of getting land worth $10 an acre for $1 25. If such was to be the result, and must be the result, he saw no longer any inducement to go on with the work of opening the river. Let it remain as it was till the regular advance of settlement should bring population into the vicinity; then the work could be done at half the cost; then the laborers and the supplies would be on the spot; now they had to be brought from a great distance, and at an enormous expense. Seeing that there were no commercial purposes to be accomplished by the improvement, and no financial benefits to be derived from its prosecution at this time, let it lie over. He was not for giving $100,000 from the treasury, to be put in the pockets of individual land speculators.

Mr. McKINLEY, of Alabama, said he was in favor of the amendment. He attached great weight to the letter of Mr. Shreve, which had been read by the honorable gentleman from Louisiana, [Mr. Garland.] He had far more confidence in his estimates and opinions than in those of any engineer, however scientific; because he was a practical man. He had had experience. He did not speak from theory merely. All his estimates were founded on an intimate personal and practical knowledge of the subject; and he thought that $100,000 could be well applied, and that it would finish this great improvement during the present year. Could there be true economy in refusing the sum, he asked, especially while the raft was growing in size every day? The difference was but $70,000, and for this sum the Government would have such a body of rich land brought into market as was no where else to be found. But the gentleman from Ohio [Mr. Vinton] was very apprehensive that, if the raft should be cut through, settlers would immediately push into the lands and get pre-emption rights. But he would ask the gentleman what inducement could any man have to go into land in the condition this was in, and must be in for a long time to come? Would they go and settle in the water, among snakes and alligators? He rather believed not. The squatter could do nothing on such lands. As soon as they were thrown open, they would be purchased by the cotton growers; by men who wished a body of land together, not a little lot such as would suit a squatter.

There was, therefore, nothing in the gentleman's argument; and it presented no good reason for any man's changing his vote who had voted in favor of the amendment. The body of land to be drained would bring in a large amount of money to the treasury. Had this raft been removed, and this fine body of fertile lands thus brought into market thirty years ago, they would have paid off more of the public debt, even supposing them to have brought no more than one dollar and twenty-five cents an acre, than they would now at five dollars. There was another bill, reported from the land committee, for graduating the price of the public lands, and selling some at twenty-five cents an acre: and if such a bill had passed fifteen years ago, enough land might have been sold to pay off the public debt. Was the Government to hold up its land for ever? And for what? To get more than one dollar and twenty-five cents as an average price for it? It was a vain expectation. The thing could not be done. But was it indeed the policy of gentlemen to keep the poor and industrious citizens of this country, the hardy pioneers who were prepared to brave the dangers and privations of the wilderness, from becoming freeholders? If that was their desire, let them avow it boldly like men; let the people understand it. [Mr. McKinley was here called to order by Mr. Hubbard, on the ground that he was discussing and defending the bill to graduate the prices of the public lands, which bill was not now before the House.]

Mr. McK. excused himself by observing that he had been cut off from his privilege of discussing that bill when it was up, by its having been hastily laid upon the table; and as the present bill presented what he deemed a fair opportunity of discussing the principle, he had availed himself of it accordingly. He insisted that, upon the question of the benefits to be derived from opening this raft and draining the lands above, the general question of the value of the public lands was fairly open. Whoever examined the subject must be convinced that nothing would so greatly promote the public happiness as bringing settlers upon our public lands. It conduced to a general equality among the citizens, which was the life of a republic. By removing the obstruction in one of the finest rivers in the West, a body of land, containing more than a million of acres, would be brought into public sale, and

would bring two millions, at least, into the treasury. It was true economy to bring these lands into market as speedily as possible; because, from their quality, their immediate sale would be certain, and the money realized. And would the House, for the petty consideration of the $70,000 difference in one item of this bill, retard such a result, and subject the country to double and treble expense in effecting the improvement itself? He trusted a wiser policy would prevail.

Mr. LANE, of Indiana, entreated gentlemen who opposed this amendment to recollect that the raft, through which this opening was to be effected, consisted of a vast body of trees, which had floated down the stream of the river, and, having lodged and become immovable, occasioned a daily and hourly accumulation of other trees floating from above; the raft was thus constantly enlarging itself, and consequently the expense of its removal was continually growing greater and greater. It had been stated by the gentleman from Louisiana, within whose district this obstruction was in part situated, that so great was the amount of the timber thus constantly brought down by the current of the river from above, that the raft extended itself up the stream at the rate of three miles a year. As soon as a cut of sufficient size should have been effected quite through it, the trees floating above would no longer be stopped in their course, but would pass down with the stream. It was obvious, however, that, in this respect, till all was done, nothing was done. The impediment above would continue to increase, and the land beyond it would continue to be overflowed. But, no sooner should a passage be made for the water, and for the trees and branches floating upon it, than the draining of the country would immediately commence, and rapidly proceed, until a vast extent of the richest alluvial soil would be thrown open to cultivation, and brought under the industry and enterprise of man. For every dollar expended in removing this raft, the Government would get back ten, fifteen, and twenty dollars; and why, therefore, should they hesitate at once to appropriate a sum sufficient to accomplish the object? One word to the gentleman from Ohio, [Mr. VINTON.] That gentleman appeared to have a great horror of the idea that these lands should be taken up by settlers at the Government price; now it would not change Mr. L.'s vote if he could be assured that every acre of the entire tract would be thus disposed of. The gentleman's argument amounted to this: that the Government ought to speculate upon her own citizens. This was a doctrine against which Mr. L. entered his solemn protest; it was a monstrous doctrine—unjust, impolitic, and utterly disgraceful to any Government that would act upon it—that a Government, erected for the common good, should undertake to speculate upon the members of its own family! make money out of the wants and enterprise of the poor and industrious portion of its own inhabitants! Those men against whom the gentleman had directed his invectives were among the most valuable members of any community; they penetrated into the wild forest; they left the comforts of the more populous settlements to brave the horrors of the wilderness; they endured its dangers and its privations, and encountered years of tedious labor, that they might earn a home for themselves and their children. Their adventurous industry induced others to follow them. They opened roads and bridged the streams, and thus rendered the public lands accessible to settlements, and brought a constant stream of money into the treasury.

Mr. EWING, of Indiana, declared himself to be in favor of the amendment now proposed; and said that, if he had entertained any doubts of its propriety, the reasons urged by the gentleman from Ohio [Mr. VINTON] against it would have been sufficient to have induced him to vote in its favor. The gentleman, it seemed, apprehended that settlers would immediately rush into that part of the country, and, according to him, many had already gone on; yet the gentleman told the House that laborers and provisions would have to be sent on from Kentucky.

Mr. VINTON: I said no such thing; I said not one word about their being brought from Kentucky, or any thing like it. The gentleman is wholly mistaken; he has misrepresented me altogether.

Mr. EWING disclaimed any intention to misrepresent the gentleman from Ohio. If the gentleman had not expressly said what he had represented him as saying, he had said so impliedly; he had intended to say so. However, as the gentleman now disclaimed any thing of the kind, Mr. E. stood corrected. The gentleman, at any rate, had said that the work would cost three times as much now as it would when the country should be settled. He had said, however, that settlers were flocking there in great numbers; and yet the gentleman had declared that the country was an uninhabited wilderness, beyond the verge of population. Now, Mr. E. should suppose that, while the men were poor, they would work cheaper and sell cheaper than when they had got in possession of these rich lands, and brought them into full cultivation. As men grew rich they were apt to grow indolent. As to the land question, which had been introduced by the gentleman from Alabama, [Mr. MCKINLEY,] he should not investigate it, as he thought it had nothing to do with the present debate. Nor could he agree in the opinion entertained by some gentleman, in disparagement of those who went to settle on public lands. Some men placed the distinctions of society in the pocket, not in nerve and sinew, and hardy daring, and indefatigable perseverance. But, under no circumstances should Mr. E. fail to sustain the cause of these valuable, though much abused men. So far from grudging them their little tracts of land at the Government price, he was in favor of going to a greater extent than any bill which had yet been brought before the House. The doctrine he held, and his sincerity in holding it, would be put to the test when the bill to which he had allusion should come in from the land committee. In the meanwhile, he hoped the House would not spend more time in the present debate.

Mr. SUTHERLAND reminded the House that they were now within ten or twelve days of the close of the session, and that if, by continuing to debate this bill, they should delay its passage much longer, it would be too late to give it a hearing in the other House. The House had now, he believed, heard all that could be said about the cutting of this raft; and he hoped they would proceed to act.

Mr. VINTON said that if the gentleman from Pennsylvania [Mr. SUTHERLAND] had heard all that could be said on the subject before the House, he enjoyed an advantage over him, (Mr. V.,) who had been part of the time detained from his seat. In briefly stating the reasons which had induced him to change his vote, he had had no intention of opening the general question of the sale and settlement of our public lands. One gentleman had said that the more squatters went upon these lands the cheaper provisions would be, and the more readily the work might be done. That might be true if settlers moved into these swamps, bringing their flocks, herds, and cornfields along with them. Otherwise, he did not see much force in the observation. Now, it seemed that nobody pretended or expected that these lands were to bring more than one dollar and a quarter, or, at the most, two dollars. But very different language had been held when the amendment had first been moved. Then the House had been told that Government was to receive ten millions of dollars, and that the lands were to sell at 15 or 20 dollars an acre. It was urged, however, that the pre-emption law, which only extended to a quarter section of land to each settler, would not interfere with the sale of the Red river lands above this raft, because they were cotton lands, and would be purchased by cot-

ton planters; and cotton planters required extensive bodies of land. Granting all this to be true, he would inquire whether the pre-emption law contained any thing which would prevent the cotton planter from securing a quarter section to each of his sons, to each of his family, be they ever so numerous; nay, to each of his slaves, if he owned them by the hundred. Could not he establish a negro on each quarter section, and let him do enough to constitute legal habitation and cultivation? And would not the planter thus get the whole tract, though worth twenty dollars an acre, at the minimum price?

[Cries for the question now rose from all parts of the House.]

Mr. McKIM demanded the yeas and nays, which were ordered by the House.

Mr. THOMAS, of Louisiana, said that, as to the matter of provisions, the work could be done as cheap now as at any time hereafter. The boats which carried on the workmen carried on the provisions. They were obtained at Louisville, and were laid in at as low a price as they could be were the country ever so thickly inhabited. So it would be no saving to the public to wait till the country should be settled. If it was settled, the people would not raise provisions; they would raise cotton, and a little corn for the slaves; and the money they got for their cotton would purchase, in Mississippi, whatever else they wanted. He hoped gentlemen would reflect that Louisiana was a frontier State; that it was exposed on one side to the sea, and on another to Mexico and the Indian tribes. Was it not manifestly the interest of the Union to have a State so situated settled as soon as possible? Was it not desirable that they should be able to protect themselves, without having a force sent down from above? If the State had been fully settled during the last war, would the militia have had to be dragged down from Kentucky to defend it? No. And yet that defence had cost as much as all the land was worth that was now in question. So that, if the Government should actually give away the public lands in the State, they would still, upon the whole, be gainers. It would be positively cruel to do any thing to stop the settlement of the country. Those who went there had much to contend with. They were exposed to a very hot climate, and to the invasions of an enemy far worse than any human power. He meant the fevers which were prevalent there. He would venture to say that his eastern friends would be unwilling to remove there, if Government would give them half the country for nothing. To cut an opening through this raft could not but be advantageous to the United States at large.

We did not yet know who were to settle Mexico. To be sure, they called the Government a republic, but it had little but the name. The people were constantly in a state of civil war, and must long continue so. The Government struck at the power of the priesthood; and, with the priests, to strike at their nests was murder in the first degree. It was no republic except in the name. Mr. T. wanted that we should have somebody on the frontiers, that we might be able to defend ourselves. The lands were rich, the soil was fertile to any degree; and an immense body of inhabitants would immediately settle upon it, if it was once thrown open. But now it lay under water, and was a fit habitation for nothing but alligators.

Mr. GARLAND, of Louisiana, said that he did not pretend to know on what grounds the Committee of Ways and Means had gone in reporting only $30,000 for this improvement. He held in his hand the estimate of the chief engineer and that of the superintendent, Mr. Shreve, and they both declared that a hundred thousand dollars was necessary. From the nature of the work to be done, a great part of the work could only be accomplished when the water in the river was low, in the month of October. Last year the appropriation had enabled them to work only from April to June; and in these two months 22,000 dollars had been expended. In order to complete it, one season of eight months continuous labor was requisite, and would be sufficient. If they went to work with three hundred men, and continued from the first of October to the first of March, the whole might be accomplished. It was miserable economy to grant the money in small sums. The same work would cost 50 per cent. to accomplish it. As to what the gentleman from Ohio [Mr. VINTON] had said, about the flocking of settlers into that country, he could tell the gentleman that there was not a settler there, and that there would not be, for the best of all reasons: that no man could settle there. If he attempted it, he would be drowned out. His house would be carried off, and all he had swept away.

Mr. ASHLEY said he had investigated a subject closely connected with this, and was enabled to state some facts which would show how important the contemplated improvement must be to the inhabitants of that country. Mr. A. went on to make some statements, which were imperfectly heard by the reporter, but which resulted in this, that freight from Natchitoches, which had cost from 6 to 7 dollars per barrel, would be reduced to 50 cents.

Mr. HUBBARD replied to Mr. McKINLEY, complaining that he had availed himself of a debate upon an item of the present bill to deliver himself of a speech which had been prepared for a different occasion, and which was here out of place and out of order. The gentleman had spoken of some persons having a deep interest in the present bill as reported. If the gentleman had had the remotest allusion to him, he would take leave to inform him that he had not the interest of one dollar in the bill. It had been reported more than four weeks since, and if this hundred thousand dollars was so indispensable, it was certainly very strange that the gentleman from Louisiana [Mr. GARLAND] had not in all that time been able to get an official recommendation from the Department stating the fact. When this item had been debated in committee, the chief engineer (General Gratiot) had been in the lobby of the House, and had been consulted, and his opinion at that time had been that 100,000 dollars could not be judiciously applied this season. Why did not the gentleman get an official statement from the Department? He had produced only a private correspondence. The worthy gentleman from Louisiana [Mr. THOMAS] had reminded the House that his was a frontier State, and that it was necessary to bring the land into market in order that there might be somebody to defend it. Mr. H. could not doubt the bravery of the people of Louisiana, especially if it was to be judged of from the character of her gallant representive. The people of New England, however, the gentleman had said, would never go there, on account of the climate and wasting fevers. Now, if he should adopt the same rule of judgment on this point, he should say that a country that sent forth two such stout and able-bodied representatives [Messrs. THOMAS and GARLAND] could not be remarkable for its wasting effects upon the frame. If such were the effects of the climate of Louisiana, he should like to make a trip to that part of the country. He only wished it would have a like effect upon him. [Mr. H. is of a spare habit.]

The question was now put, and decided in the negative, as follows: Yeas 60, nays 121.

So the amendment was rejected.

The next item discussed was an appropriation of $10,000, to open the Choctaw pass, leading from the ocean to the harbor of Mobile.

Mr. MURPHY, of Alabama, made a very full and clear explanation of the localities in the harbor of Mobile. The great disadvantage now experienced by vessels en-

tering that port for want of a direct passage from the ocean to the city. Vessels had now to make a circuitous route ten or twelve miles round an island, first passing above the city, and then coming down to it, so as to need first a south and then a north wind. To obviate this difficulty, vessels were frequently towed up by steamboats, but the lighter craft could not afford this expense, and great inconvenience and delay was the necessary consequence. Choctaw pass was an outlet to the sea, between an island and the main, and if the channel were once deepened at that spot, the whole difficulty would be obviated.

The amendment was concurred in without a division.

The next item of amendment was "for completing the improvement of the navigation of the river Savannah, in removing the obstructions in said river from the city of Savannah to its mouth, fifty thousand dollars."

Mr. WAYNE briefly explained the reason why he should vote in favor of this amendment, although he had opposed some other appropriations in the bill. He apprehended that, if the House should go on appropaiating in a too lavish and inconsiderate manner, the Treasury might possibly be brought into embarrassment. But as the present item was for continuing a work which had been commenced, he should vote in favor of it. He believed that $30,000 was as much as could with advantage be applied to the object during the present year.

The amendment was concurred in.

The next amendment was the following item:

"For continuing and securing the works at Oswego harbor, New York, thirty thousand dollars."

Mr. McKINLEY opposed the appropriation, and called the attention of the House to the sums which had at different times been appropriated for completing the works at this same harbor. He quoted these amounts from former appropriation bills, and from his statement it appeared that, within the five years last past, $91,744 had been expended. All these several appropriations, Mr. McK. said, had each been for completing the works at Oswego harbor. But it seemed they were not yet complete. As he did not think that the United States was bound, after making the harbor at Oswego, to keep that harbor for ever in repair, he called for the yeas and nays upon concurring in the amendment; and they were ordered by the House.

Mr. TURRILL, of New York, observed, in reply, that this appropriation had been recommended by the Department of War. It was true that the sums mentioned by the gentleman had at different times been appropriated toward completing the improvement of this harbor; but it ought to be borne in mind that, in the whole State of New York, with two exceptions, a more important harbor did not exist than at Oswego. The amount of its commerce had, within the five years of which the gentleman had spoken, increased five hundred fold. The harbor was situated at the mouth of the Oswego river and the Oswego canal; and its water communication extended as far as Green bay, for schooners of any burden. It carried on a very extensive commerce with Ohio, Michigan, and with a part of Indiana. The appropriation, he repeated, had been recommended by the Department of War, and reported by the Committee of Ways and Means. The piers had been carried out a short distance into the lake, in the same manner as had been done in the other lake harbors. Wooden cribs had been constructed, and filled with stone, and in that form the piers might have been said to have been completed. But the timber of these cribs now began to decay, and in some parts they were so much injured that they could not stand much longer. Two years since the Department of War had adopted, in respect to all these harbors on the lake shores, a new plan, which consisted in erecting mounds of stone outside of the cribs, and surrounding the foot of them, which preserved them from the action of the currents, and made the piers far more solid and secure. The last appropriation of 18,000 dollars had been for this object, and the money had been applied under the direction of an officer of the United States. Mr. T. held in his hand a written communication from that officer to the Department, in which he gave it as his opinion that these cribs in the piers at Oswego harbor would not stand another year without being further secured.

Mr. HUBBARD stated to the House that, in the orginal communication made by the War Department, and by the Committee of Ways and Means, containing estimates for works of internal improvement, 43,000 dollars had been set down for this harbor of Oswego. The committee at first had thought it inexpedient to recommend the appropriation at all, and the bill had accordingly been reported without the items for this harbor and the others on the lakes. Mr. H. had, however, subsequently written to the Secretary of War, with a view to ascertain what reduction could be made in the Department's estimates for these works; and he had received for answer, that the greatest reduction possible, with respect to this harbor of Oswego, would be to diminish the sum to $30,000. The committee thereupon reconsidered the former determination, and agreed to recommend that sum.

Mr. McKENNAN called the attention of the House to the very different course pursued by the committee in relation to different works. Here the gentleman took the estimate of engineers as correct, and could not venture to curtail beyond the limit they had fixed; but the House had heard very different language from the same committee some two days before. Then the estimate of the engineer was outrageous, and no confidence was due to it. Would the House thus make fish of one and flesh of another? Were the estimates to be every thing for Oswego harbor, and nothing for the Cumberland road? He put it to the gentlemen to say on what principle it was that they admitted official estimates in one case and rejected them in the other.

Mr. McKINLEY explained. The committee had not all been in favor of any appropriation for the Cumberland road, but those who were opposed to it, not willing to make difficulty, had assented to the reporting of the bill for that object, but, in giving this assent, had expressly reserved to themselves the liberty of opposing the bill in the House. This liberty Mr. McK. should use whenever he thought fit.

Mr. GILLET regretted that the gentleman from Pennsylvania [Mr. McKENNAN] had indulged in such a course of remark. It was calculated to cherish those sectional feelings which every true friend of his country must wish to see banished from our halls of legislation. The gentleman need not complain on the subject of Oswego harbor; for that was a subject of appropriation which had suffered almost as much as the Cumberland road. That gentlemen might be better prepared to estimate the necessity and value of having a good harbor in that part of Lake Ontario, he would call the attention of the House to the amount of business done annually upon that lake. There were from 5 to $8,000,000 worth of property which annually passed by this port of Oswego. As many as twelve steamboats and twenty-three schooners had left that port in a single week. It carried on a large amount of commerce in the interior, extending as far as Chicago. It was one of the most useful and necessary harbors on the whole range of the lakes, especially in case of storms, which, as most gentlemen were aware, were often very violent upon that lake. It was true that former appropriations had been made professedly "to complete" the improvement of this harbor; but that was merely a phraseology employed by the Department, and was well understood. The Department recommended a sum which

they supposed adequate to complete a given improvement: the bill was reported conformably, and the words "for completing" were used. In the House, the amount was often cut down one-half or more, and still the same phraseology remained. And though $20,000 might be needed to complete a work, and the House gave only ten or fifteen, it was still said to be "for completing" the work in question. Mr. G. said he had personally examined these works at Oswego, and he was prepared to state to the House that all which had been done there would be in danger of being lost, unless the appropriation now asked should be made.

Mr. POLK congratulated himself that for once he was able to act with the gentleman from Pennsylvania, [Mr. McKENNAN.] A majority of the Committee of Ways and Means had been of opinion that the works on these lake harbors might, without injury, be for the present suspended, and had accordingly omitted them in the bill. But gentlemen locally interested had applied to the committee with much importunity, urging at least their insertion in the bill. The committee had thereupon applied to the Department to know whether these appropriations were or were not indispensable. The Department had replied that a portion of the works might be suspended for the present, while another portion could not so well be dispensed with. The committee had accordingly concluded to submit the items to the House, and give a fair opportunity for the expression of the views and wishes of the House upon each. He thought that no very great difficulty could result from withholding these appropriations for the present year. The piers had all been completed according to the original plan. What was now asked was for a new plan since adopted. To be sure, this was recommended by the engineers; but all gentlemen knew that those officers were in the habit of recommending very large expenditures of money, and with but little regard to the public purse. They must recommend something: it was their trade. Mr. P. here quoted a report from the War Department, to which he had referred. He concluded by suggesting to his friend from Alabama [Mr. McKINLEY] to modify the amendment by reducing it to a smaller sum—say $5,000.

Mr. WHITTLESEY, of Ohio, said he was quite confident the gentleman from North Carolina [Mr. McKAY] would not oppose the appropriations for harbors on the lakes, if he knew how indispensably necessary they were to the commerce of those inland seas. He most cheerfully acknowledged the value of the services rendered by that gentleman, in looking into the different items of the appropriation bills, and opposing them where he believed the expenditures to be either unnecessary or extravagant. It appeared to him there was a prospect of a return of the good old times, when a gentleman from Tennessee, General Cocke, was a watchman at the door of the Treasury. A distinguished Senator from New York, [Mr. King,] in speaking of the services rendered by General Cocke to the country, said he had saved millions of money by his vigilance, his independence, and his integrity. He did not doubt the same remark would be made of the gentleman from North Carolina, if he should remain long a member of this House and should scrutinize the appropriation bills with the investigating talent he has bestowed upon them at this session of Congress. It cannot be his object, however, nor the object of any other gentleman, to oppose appropriations which are necessary, and against which no constitutional objections exist. He would not stop to discuss the constitutional question, whether Congress had the right to appropriate money for the construction of harbors, as he had no doubt a great majority of that House were in favor of the power, and he did not understand that the opposition was from any such doubt. The doctrine that the constitution is confined to the salt water, in the dispensation of its benefits, was fast losing its advocates even on the seaboard, and none have sustained it west of the mountains. He was not acquainted personally with the situation of the harbor at Oswego, but as the attack had been made upon all the appropriations for the same object, and as he felt a deep interest in behalf of the lake appropriations generally, he hoped he should be excused if he took part in the present debate, although it was in relation to an appropriation for a harbor in New York. Objections have been made that the estimates have been exceeded; and it is asked, in the spirit of complaint, when will these appropriations cease? That the estimates have been exceeded in other cases has been no objection to the further appropriation of money to complete the works commenced. Aware that this objection would be raised, and with a view of satisfying the objection that it was not confined to harbors, he penned a resolution several months since, which he should have offered if it had been in order to have done it, calling on the Secretary of War to report the original estimates for fortifications, with the amount of money already expended on them; and an estimate of the amount necessary to complete them. He had not, from the state of the business before the House, been able to offer the resolution under the rules, and he was reluctant to ask a special indulgence where it could be avoided. He had availed himself, therefore, of the occasion afforded a few days before, when the fortification bill was under discussion, to ask the chairman of the Committee of Ways and Means, whether the expenditures had not exceeded the estimates? He promptly said they had, and that such was generally the case in relation to all public works. It was to be borne in mind, that the size of a fortification being given, the number of cubic yards of excavation and masonry, and the quantity of wood work, could be given with great accuracy, if not with mathematical certainty. The price of labor and materials might vary, which would make some difference in the amount to be expended; but in a case where the quantity of materials was known, as well as the quantum of labor to be performed, it seemed as if the estimates might be made out with great accuracy. And yet, in these cases, it was found the estimates were exceeded, where no want of skill was imputed to the engineer, nor any want of economy in the officer who superintended the work.

No engineer, however skilful or particular he might be, could make an accurate estimate of what the expense would be in constructing a harbor. He cannot do so, because he cannot tell what quantity of materials will be wanted. He said he would state for the information of the House, as he had done on former occasions, what were the obstructions and the modes adopted to remove them. All or nearly all of the streams that discharge their waters into Lake Erie, on the southern shore, have deep channels, and, when accessible, form safe and secure harbors. These streams, generally, have their sources but a short distance from the lake, and in the summer season do not discharge such quantities of water as to keep open their channels. The sand on the shore is drifted up and down the lake, according to the course of the winds, and, overcoming the force of the current in the streams, a deposite is made at their mouths, which prevents egress or ingress. The obstruction thus formed remains until the water within rises to such a height as to force a passage through the bar. Before artificial harbors were formed, these obstructions blocked up the mouths of the streams during most of the navigating season; or, if partially open, the water was too shallow to admit the vessels in general use, and the lighters only passed over into the channels. The harbors within these channels are completely land locked, and are as secure for vessels to ride in as any in the world. To remove and to prevent a recurrence of these obstructions, artificial works are built, commencing at the point where the wa-

ter of the stream is obstructed by the sand, and from thence they extend into the lake, until from twelve to sixteen feet of water are obtained at the farthest point of the piers. The waters in the streams being compressed by two solid piers, the sand is swept off at the spring and fall freshets, leaving an open channel for the largest vessels that navigate the lake. Two modes are adopted in forming these piers, according to the substance found at the bottom. If sand and clay only are found, a pier is formed by driving two rows of piles distant, for the breadth of the pier, from sixteen to twenty feet, leaving spaces between the piles, lengthwise of the pier, about eight feet. These piles are driven through the sand and into the clay, from twenty to thirty feet; and when lined with timber and secured by cross ties, the entire space is filled with brush and rocks, and when permanently raised to a height of six or eight feet above the surface of the smooth water, the pier is planked over to prevent the action of the waves on the rocks within. When very hard gravel or rock is found at the bottom, the piers are constructed of cribs filled with brush and rock, and planked as before described. The sand cannot be removed by machinery to commence a pier, and the brush and rock were laid with the timbers on the top of it. By the action of the water in deepening the channel, the sand under the pier escapes to fill up the cavity, and is swept off until the pier rests upon the hard clay or rock bottom. As the pier settles, timber and rock are added to keep it at the necessary height. No engineer can tell how much a pier will settle. They sometimes settle ten, fifteen, or more feet. The construction of these harbors at first was of doubtful experiment; but in every instance they have proved successful, and have more than realized the anticipations of the most sanguine. The experiment at Erie was the most doubtful in my mind when it was commenced. The water of the small bay is not forced into the lake by the accession of the waters of any considerable stream. The engineers, who examined the mouth of the bay, thought the reflowing of the water from the bay into the lake, when confined within two piers, would make a current so strong as to carry the obstruction off, and keep the channel clear. I had serious fears, and so expressed myself to the Committee on Commerce; but I was anxious the experiment should be tried, on account of the importance of that harbor to the commerce of the lake. The experiment tested at that place the accuracy of the calculations made by the engineers. Gentlemen must recollect there is a distance of about two hundred and fifty miles, without a natural harbor, on that lake; and that the commerce is exposed to the sudden storms that prevail and rage there with unsurpassed violence. Before the harbors were constructed, it was not uncommon to hear of vessels, within a few miles of the islands, encountering a gale of wind, and driven by it to Buffalo or Black Rock; and it would be days, and might be weeks, before they could regain their position on their way to Detroit or the upper lakes; and they were liable to be driven to the islands, or on the Canada shore, when near Buffalo, if they encountered an easterly gale. Without these harbors the present commerce of the lake could not be carried on. Each vessel would be loaded and unloaded, when anchored a distance from shore, by lighters, in which situation it would be liable to be driven aground and totally wrecked. This risk would greatly increase the rate of ensurance, and the labor of thus loading and unloading a cargo would considerably add to the value of the importations, and, on many of the articles now exported, there would be so heavy a tax that their shipments would be suspended. Gentlemen at a distance, unless they have paid particular attention to the subject, have not kept pace with the rapid increase of the commerce of the frontier lakes. His belief was, it would not fall short of ten millions of dollars this season on Lake Erie. Every section of the country is benefited by this commerce, whether situated in the valley of the Mississippi or on the southern or northern seaboard—for the products of every section enter into and form a part of it. He would give to the House a data, as to two parts, from which others might form their opinions as to the correctness of his own.

The first is a "statement of the number of vessels entered and cleared at the port of Cleaveland with cargoes, with their aggregate tonnage; also the value of merchandise entered and cleared coastwise; also the number of vessels entered and cleared from foreign ports; also the value of foreign imports and exports; also the number of steamboats entered and cleared in the years from 1825 to 1833, inclusive." This statement was furnished to him by Mr. Starkweather, the collector, and its accuracy might be relied on.

Years.	Number of vessels arrived with cargoes.	Number of vessels cleared with cargoes.	Aggregate tonnage of vessels arrived with cargoes.	Aggregate tonnage of vessels cleared with cargoes.	Value of merchandise exported coastwise.	Value of merchandise imported coastwise.	Number of vessels arrived from foreign ports.	Number of vessels cleared for foreign ports.	Value of foreign imports.	Value of foreign exports.	Number of steamboat arrivals	Number of steamboat clearances.	Total number of arrivals, including steamboats.	Total amount of tonnage arrived, including steamboats.
1825	54	54	2,060	2,060	$50,166	$132,645	1	1	$60	-	21	21	75	7,310
1826	63	63	2,835	2,835	70,875	181,440	4	4	373	-	42	42	105	1,3135
1827	75	75	3,000	3,000	75,000	192,000	11	11	572	-	63	63	138	18,750
1828	92	92	4,140	4,140	103,560	264,000	4	4	345	-	70	70	162	21,640
1829	222	222	8,880	8,880	222,000	568,000	7	7	370	$1,475	90	90	314	31,300
1830	327	327	15,489	15,489	377,197	997,345	2	2	69	-	448	448	775	127,489
1831	424	424	31,407	31,407	940,396	1,570,350	9	9	372	4,584	450	450	874	143,907
1832	600	600	45,082	45,082	1,300,000	2,000,000	34	34	1,313	6,400	470	470	1,070	162,582
1833	800	800	56,250	56,250	1,794,000	4,700,000	125	125	3,500	250,000	705	705	1,505	232,500

This port, being at the northern termination of the Ohio canal, more business is transacted there than at any other port west of Buffalo; but a very considerable busi-

ness is done at all the ports, and its increase is in about the same progression at all of them as it is at Cleaveland.

Before the construction of the piers at Huron, the mouth of that river was uniformly buried up by the sand during most of the navigating season. He had seen it when the obstruction was as broad and firm as any avenue in the city.

He had been furnished, he said, by George S. Patterson, deputy collector at that port, with a statement of the number of arrivals and departures during the past years, together with the amount of exports and imports from this port, where, without the improvements, no vessel could have entered. He would not detain the House by giving the items of the exports and imports, although he was sure gentlemen would be pleased to consult the statement as a statistic of some importance in developing the resources of that section of the country, which had been settled but a few years. The whole number of arrivals at Huron, in the past year, was eight hundred and eleven, and the departures eight hundred and three. The nett increase over the years previous was fifty per cent. The amount of exports was $274,840 99, and the amount of imports was $1,599,472 50. It should be borne in mind, when we speak of imports on the lake, we speak of goods and merchandise that are landed at any particular port from another port or place; as, in this statement, under the head of imports, are one hundred and ninety-five tons of castings and pig iron, which were probably made and shipped at Vermilion and Grand rivers. This port is within ten miles of Sandusky bay, which is the only natural harbor on the south shore of the lake. These harbors not only give protection to the commerce and navigation of that country, but they give protection to the lives of the emigrants who are settling the public lands in Ohio, Indiana, Illinois, and Michigan. It is believed that not less than 100,000 persons were on that water during the last year. It is alike the duty and the interest of the Government to render the navigation of the waters communicating with the public domain, as secure as possible. Viewing the United States as land holders, they are bound, by every consideration imposed upon them by duty and policy, to construct these harbors. Without them, neither property nor life is secure. Captains of vessels, who have navigated the Atlantic ocean for years, and who have navigated the lake, say they hardly knew what a storm was until they came on to the Western lakes.

Gentlemen entertained the opinion that the money was squandered or misapplied. He had visited all the works in Ohio, and some of them several times in the course of a year, and he would assure the House that the most rigid regard was paid to the faithful expenditure of the money; and where the superintendents had found the master-workmen were unskilful, or wanting industry, they had been dismissed. He did not believe there were any public works carried on by the General Government where so much regard was paid to economy as in the construction of harbors on the lakes. So important were these harbors to that section of country that, he believed, if they were destroyed every fall, it would be the duty of the Government, if it had the power, to replace them every spring. The gentleman from North Carolina [Mr. McKAY] had shown to him what was said to be the amount expended on the harbors in Ohio. From the conviction that there was an error in the amount, he had obtained a statement of the several appropriations, and he would give the gross amount expended at each harbor.

Cleaveland, - - - -	$34,235 56
Grand river, - - - -	29,598 29
Black river, - - - -	35,734 77
Huron river, - - - -	22,208 71
Ashtabula, - - - -	35,558 75
Conneaut, - - - -	24,810 65
Cunningham creek, - - -	6,956 00
Aggregate amount, - -	$189,102 73

As to the inquiry, whether these works were not completed according to the original plan, he would say, in one view they were. The original plan was to try experiments; to ascertain whether it was practicable to construct artificial harbors. Having found the experiments had proved successful, the object now was to make the works permanent. The piers were liable to be removed by the action of the ice at the breaking up of winter, or by the storms when the lake was open. The timber was constantly decaying, and the piers would eventually fall to pieces unless secured. To give permanency and durability to them, it was proposed to form break-waters of stone, so that the piers could not be removed by the storms, however violent; and the timbers, being covered over, would not as rapidly decay, or, if decayed, the stone would be secured by the additional quantity. This was the object of the appropriations now proposed, in most cases. In some instances the appropriations have been expended, in part, in dredging out the obstructions between the piers, which were too firm to be removed by the operation of the water upon them. This is the case at Ashtabula.

It was undoubtedly the intention of Congress, when these harbors were being constructed, to make them permanently useful; and, in this view, they are not completed, even according to the original plan. As to the particular harbor that had given rise to this debate, he had no doubt of its importance to the commerce, not only of Lake Ontario, but that which passed into Lake Erie from Lake Ontario, by the Welland canal, or by the New York canal; but he was not prepared to say, personally, how necessary the appropriation was. It having been recommended by the Secretary of War, on the inspection of an engineer, was evidence, with the declarations of gentlemen from that section of the country, to satisfy him that it was wanted. And he was prepared to support it by his vote.

Mr. WARDWELL said that his own constituents were personally interested in the adoption of the present item of the bill; but they were not alone in that respect. He called upon gentlemen from Ohio, from Indiana, from Illinois, and from Michigan, to unite in its favor, for they were all equally interested in its success. Oswego harbor was at the eastern part of Lake Ontario, and constituted the only connexion between that lake and the great Erie canal. It enabled those who had produce to transmit, either east or westward, to save the cost of 200 miles transportation on that canal, by using the lake instead. The expense of the improvement would soon be repaid if it were by this saving alone. It would be the interest of the United States to go on with the work and to complete it, should it cost $200,000 more than all which had been hitherto expended upon it. The property on the lakes would not be worth, by 50 per cent. as much as it now was, if these harbors should not be improved. At present, goods could pass, and did pass, all the way from Oswego to Chicago, at the very lowest extremity of Lake Michigan. If there was any post upon those lakes which, next to Buffalo, was needed by the navigation constantly traversing them, it was this harbor of Oswego. The works already erected there would soon go to destruction if this appropriation should be withheld. No gentleman who rightly understood the case would withhold his vote, if $100,000 instead of $20,000 were asked.

Mr. MANN explained on the importance of the Oswego harbor to the commerce of the lakes, and the manner in which that commerce was transmitted through the Welland canal. He said he had seen a communication from one of the United States engineers, stating the injury which had been sustained by the piers of Oswego harbor in consequence of a late violent storm upon the lake. Their repair was indispensable. He had supposed, as a

matter of course, that the committee must have had the estimates of the Department to go upon before they reported the present item. He was greatly surprised at the statement of the honorable chairman, [Mr. POLK,] that he and his committee had been induced to change their course by the personal importunities of members of that House. He had had no idea that any committee of that House would suffer personal importunities, however urgent, to prevail over their sense of propriety and duty.

[Mr. POLK explained. He had not meant to say any such thing as that the committee had been over persuaded by the importunities of any gentleman. They had been induced, from representations made to them, to conclude that it would be best to introduce the items, and let the House pass upon them in any way it might.]

Mr. MANN thought the honorable chairman had not mended the matter much by his explanation. It was still somewhat strange that an amendment which had been reported by the committee themselves, and had received the sanction of the Committee of the Whole House, should now be opposed by those who had moved it.

[Mr. POLK. Very well. Next time I will withhold it altogether.]

Mr. MANN resumed. That would be the right way. If he disapproved of an appropriation, let him keep it out of the bill; but, for himself, if he reported a measure, he should sustain it. How were the House to be instructed in matters connected with estimates from the Departments, unless through the Committee of Ways and Means? Mr. M. went for diminishing the appropriations where it could be done with propriety; but not for suffering the public interest to be totally destroyed. Whether $10,000, or $20,000, or $30,000 were needed to protect the commerce of the lakes, he should ever be ready to vote for it. Why should an important and valuable harbor, like that of Oswego, be suffered to go to ruin for want of this paltry sum of $30,000? The harbor was not only important to all the commerce exposed upon those stormy lakes, but to the preservation of human lives. The spectacle presented by Lake Ontario in a storm of wind was truly appalling, and the danger of navigating it at such a time was far greater than that encountered upon the ocean itself.

Mr. STEWART rose merely with a view to set the gentleman from Tennessee [Mr. POLK] right in reference to a remark made by his colleague, [Mr. McKENNAN.] It certainly was not a little extraordinary to see the chairman of the Committee of Ways and Means advocating some of the appropriations reported by himself for the service of Government, and opposing others, while both were from the same Department, and rested on estimates of like authenticity and accuracy. If the Department wanted hundreds of thousands of dollars for Indian annuities, it was all right; it must be paid; the Government required it. If millions were asked for fortifications, the committee recommended accordingly; all was right; the Government wanted the money. But when money was asked by the same Department for a road, and the call was accompanied with the most minute estimates to support it, the tune was changed—it was profligate extravagance. He had always supposed that the chancellor of the exchequer came to the House for money to be applied to objects recommended by the Government. That was the proper position for a chancellor of the exchequer—it was expected of him. But who before had ever heard of such a gentleman, selected to fill a post of such a character, throwing himself, with all the influence he could wield, in open opposition to appropriations called for by himself in the name of the Government, and doing every thing in his power to embarrass and defeat appropriations for the public good? In England, if the chancellor of the exchequer failed to carry the objects which he had recommended to the House of Commons, he immediately resigned his seat. But here he was seen setting himself in opposition to the recommendations of the Executive department, and denouncing the estimates, officially made and submitted, as extravagant, enormous, and "profligate." Why was such a spectacle exhibited? The Secretary of the Treasury told the House that there would be no deficiency in the revenue; that, after all the public debt should have been paid, and all the great expenditures provided for, there would be still a balance in the treasury of three millions of dollars. And now, since then, he had discovered that things turned out better than he had anticipated, insomuch that there was likely to be five or six millions of surplus revenue. What was the gentleman from Tennessee going to do with these six millions of dollars? Was this sum to be left in the pet banks to be lent out for their profit? Were they to get all this money without bonus or interest, and speculate or discount upon it? Was that the object?

Mr. WHITTLESEY here interposed, and reminded the gentleman from Pennsylvania that this was a bill for harbors, not about pet banks. It had nothing to do with the subject of banks, and he must call the gentleman to order. He did not wish to see another whole day taken up in debate.

Mr. STEWART replied that he knew it was a bill for harbors, and he went for the harbors, and should vote for the bill. It was what he desired. He was for putting our money to some use, not for letting it lie dead in the banks or the treasury. He was just as much opposed to hoarding it up in one bank as in another—in a national bank as in the pet banks. Scatter it abroad—let it do good.

Mr. BEARDSLEY hoped the appropriation for Oswego harbor would not be killed by talking, of which it stood in great danger. The Department recommended this appropriation; the Committee of Ways and Means recommended it. He did not understand it had been abandoned by any body. It had passed the Committee of the Whole, and was now to be acted on in the House. No positive opposition had been made to it; a mere suggestion had been thrown out, and some doubt expressed as to its expediency. The Committee of Ways and Means had not avowed any opposition to the measure, and he hoped they would not be teazed into doing so. They had reported it, and that was the best expression of their judgment in its favor.

Mr. BURGES said he had been laboring for seven years to get the House to appropriate 500 dollars to obtain the report of an engineer on the merits and capabilities of the harbor of Providence, and had been unable to accomplish it. Yet here were 30,000 dollars asked for a little harbor on the frontier. They could not go from this port to the other lakes without scaling the falls of Niagara; and how was it that gentlemen talked of its extensive commerce with Ohio and Michigan? He had, indeed, heard of a large sum of money having been invested by a certain gentleman in a purchase of land near Oswego, or rather, near Sackett's harbor; and that might account for the deep interest which seemed to be manifested in the present item of appropriation. But, surely, gentlemen did not wish to take the bread out of the mouths of the people of New England, to carry it into Canada. If not, why was Oswego harbor, which opened only to the commerce of the Canada shore, to be preferred to Providence harbor, which opened to the commerce of the whole world? Why were a few dollars to be refused for the examination of a harbor in the Eastern States, and thousands granted to build up a little harbor on the frontier, to trade with Canada? The chairman of the Committee of Ways and Means condemned the appropriation, and very properly. That gentleman was not bound to support every object which he might be made the organ of communicating to the House for its action. He hoped, although the gentleman had reported this

item, that he had since grown wiser; and, before he supported any measure in that House, would first consult his own conscience, (that was to say, if he had any,) although, for so doing, he might be rebuked by the self-constituted conservator of the Cumberland road. He hoped the gentleman would escape unhurt. If the public money was to be left in the pet banks, the gentleman who left it there had already a quite sufficient load of responsibility. He was answerable before a most tremendous tribunal. He hoped that gentleman would not be offended, although the effort to build a roadstead for our navy, opposite his farm, should unhappily fail. He agreed that this stood on rather better constitutional ground than roads and canals from one State to another. This was a harbor on our frontier waters, and the trade for which it was to be made was foreign, not domestic trade.

Who had ever before heard of *making* a harbor? Creating one where nature had made no harbor at all? His colleague and himself had been laboring, session after session, to get a little opening made in Block Island to secure a harbor for wrecked sailors, where, with a little trouble and expense, a harbor of eighteen fathoms might be opened for all the commerce of the Sound. Yet here was a harbor to be made upon a great mud-flat--a harbor to be made "out of the whole cloth"--because it happened to be opposite a farm belonging to the Vice President!

Mr. TURRILL said that it was, perhaps, to be regretted that the honorable gentleman from Rhode Island [Mr. Burges] had not been successful in his efforts to obtain the appropriation of 500 dollars, for which he has so long contended; it would have saved the time of the House in listening to, and me the trouble of answering, the remarks which he has just submitted. The harbor of Oswego is not, as the honorable gentleman seems to suppose, made out of "whole cloth." There is not a safe natural harbor on the lake. Before the construction of the work under consideration, there were, at times, serious difficulties in entering the harbor. The current of the river and the surf from the lake had formed a bar at the mouth of the river, over which it was almost impossible for a schooner to pass in rough weather. The piers erected at that place were intended to remedy this evil, by enabling vessels to pass over the bar in safety at all times. These piers do not, as the gentleman supposes, said Mr. T., extend into the lake; they are nearly parallel with the shores, and they do not stand upon the sand, but upon solid rock. Before the construction of this work, schooners were frequently stranded in attempting to make the harbor; now, they can enter it in perfect safety at all times. The honorable gentleman says that "there is no connexion whatever between Oswego and the upper lakes, unless you sail over Niagara falls." In this, also, said Mr. T., the honorable gentleman is mistaken. There is a direct navigable communication between Ontario and the upper lakes. Salt is put on board of schooners at Oswego, and landed on the wharves in Cleaveland; wheat is taken from the store-houses in Cleaveland, and, without reshipment, landed at the mills in Oswego. To that portion of the gentleman's remarks which applies to the trade with the upper lakes, it is a sufficient answer, said Mr. T., for me to say that, during the last year, there were shipped from the port of Oswego to the upper lakes, through the Welland canal, sixty-five thousand barrels of salt, and that, during the same period, one hundred and sixty thousand bushels of wheat were brought from Lake Erie to Oswego, through the same channel. British as well as American steamboats touch at this port in performing their regular trips, which they could not do were it not for the public works, to secure and complete which this appropriation is asked. Sir, said Mr. T., the immense tide of emigration which is constantly flowing into Ohio and Indiana, and thence rolling down the valley of the Mississippi, passes through Oswego. The steamboat United States, on her trips up the lake, during the last summer, usually had on board from three to seven hundred passengers. This boat commenced running the present season in the month of April, and I see, by the papers of that date, that, on her first trip up the lake, she had seven hundred passengers and seventeen horses on board; on her second trip, she had on board nine hundred passengers and twenty horses. This, said Mr. T., is only one of several boats which now constantly touch at that port. Some idea of the increasing prosperity of Oswego may be formed from the fact that, in 1827, this village contained but 600 inhabitants, and that its population is now not less than 3,500; and the House can judge of the importance of the commerce of that place, when I state that, during the last year, there were shipped from the port of Oswego one hundred thousand barrels of salt. It appears to me, said Mr. T., that it must be evident to all, that not only the interests of an extensive and rapidly-increasing commerce, but also the safety and protection of human life, imperiously require that the public works at Oswego should be made permanent.

Mr. SELDEN said that objections were made without facts to support them. He was well assured the gentleman from Rhode Island would vote for this appropriation when he came to understand the case. At the mouth of all the streams entering into Lake Erie and Ontario from the south there were banks of sand, occasioned by the sluggishness of the streams, and their encountering at that point the tides of the lake. This obstacle, which rendered useless the most excellent and capacious harbors, had been happily encountered and removed by the erection of two parallel piers, extending out from the harbor a short distance into the lake: these, by compressing the streams, gave them force sufficient to wash away the sand which had accumulated at the mouth of the harbor, and carry it into the lake. This once done, there was no more accumulation, but the navigation became perfect and unobstructed. When this system commenced, it was merely an experiment. It had been recommended by the engineers, and its result had more than realized their best hopes. Wherever this plan had been adopted the harbors were rendered safe, and perfectly accessible at all times. This was the value of the work at Oswego; and the present appropriation was asked for the purpose of repairing the damage done to these piers by a storm, and to strengthen and render them permanent.

The gentleman from Rhode Island was a little mistaken when he supposed that all the shipping from Oswego must scale the falls at Niagara before it would reach the more Western lakes: it got there by a less hazardous ascent, through the Welland canal. The appropriation, therefore, was not for the sole benefit of the State of New York: but, also, for that of the Western States, whose products reached this port. Indeed, its effect was rather to divert the trade from the Erie canal, and thus lessen the revenue of the State; yet he was in favor of the measure, as one conducive to the public good. Even were the facts as the gentleman from Rhode Island conceived them to be, and this had been a harbor manufactured out of the whole cloth, to raise the value of an estate purchased by a certain distinguished individual in the State of New York, the reason to oppose the present appropriation no longer held good, inasmuch as that very distinguished person had, since then disposed of his interest in the land: and were the persons who had purchased from him to be punished because he had once owned the property? But the facts were far otherwise. There was a good natural harbor, and no one who had ever visited the spot could doubt of its great value and importance. It was in immediate connexion with the great salt works at Salina, and it was at Buffalo that the salt from those works was shipped for consumption in the West. The harbor

was alike connected with the foreign and the home trade upon the lakes, and he trusted the House would not abandon the improvements which had been begun, and which, if now given up, must go to ruin.

Mr. BEARDSLEY made some inquiries of Mr. BURGES, as to what he had alluded to in speaking of some individual whose property was to be benefited by the proposed appropriation.

Mr. BURGES explained himself, as having had reference to Mr. Van Buren, who, he understood, owned 500 acres of land at or near Oswego. He had since understood that he had sold it to some other gentleman, but he would not say to whom.

Mr. BEARDSLEY replied that, if the fact was so, the gentleman's objection was happily removed, and now he hoped they should have the gentleman's vote.

Mr. HUBBARD hoped the House would proceed to vote, and not occupy its time in inquiring whether the Vice President owned a certain farm or not. It was not true, whoever might say it, that the committee had been induced to propose these items of appropriation by importunity from any quarter. He had been satisfied that this harbor must be ruined, unless something was done to secure the piers. He had no doubt of it. He had, therefore, addressed a letter to the Secretary of War, to which he had received an answer which he would now read to the House. [Mr. H. here read the letter.] In exact accordance with these statements, the amendments had been prepared: and Mr. H. was convinced that less than $30,000 would not be sufficient to save this harbor of Oswego from destruction. The gentleman from Pennsylvania [Mr. McKENNAN] was mistaken in supposing that the committee had pursued an inconsistent course in regarding the estimates of the Department in one case, and disregarding them in another. The committee had taken the liberty of differing from them, as well in regard to this harbor as to the Cumberland road. The estimate of the Department had not been $30,000, but $43,000: yet the committee had recommended only $30,000. How, then, had they made "flesh of one and fish of another?" How much flesh, in the name of conscience, did the gentleman want? Who would think of adding to the gentleman's avoirdupois? [Mr. McKENNAN is a very large and stout man.] The House had given the gentleman flesh by the million of pounds. But the gentleman seemed to think that, whatever might be appropriated to other objects, the Cumberland road must be residuary legatee. If the gentleman would allow to poor little New Hampshire one-fifth of what had been given to his mammoth road, Mr. H. would be very thankful.

Mr. McKINLEY now moved an amendment, reducing the appropriation to $8,000.

Mr. McKIM said he wished to be indulged with a few words, in explanation of the course pursued by the committee. The Committee of Ways and Means had felt uncertain how the revenue was like to turn out, and therefore they had been disposed to let these applications for harbors lie by for the present, until it should be ascertained whether the nation would have means to justify the expenditure. He had had a personal conversation with the Secretary of War upon the subject. That officer had assured him that the proposed improvements were really wanted, and must be made; but that the appriation might be omitted for the present year, if any apprehensions were felt as to the sufficiency of the revenue. Subsequently to this the committee had become satisfied, from evidence submitted to them, that the appropriations were absolutely necessary; and the resolution to insert them in the bill had passed the committee in the utmost harmony. There had been no personal opposition to them before. The only objection was founded on prudential considerations; but as soon as it was discovered that the welfare of the country demanded this application of the public money, the measure was agreed to without a dissenting voice.

Mr. MANN explained, disclaiming all intention to censure the Committee of Ways and Means. He had merely expressed his surprise at the course they had adopted, which, however, he did not doubt, had been pursued from the best motives. The committee were only seeking to diminish the expenses of the Government. Yet he must be permitted to repeat that, if a standing committee of that House desired or expected their report to meet with the respect and support of the House, the members of the committee must be ready to support it themselves; and, should the report be assailed in the House, must be prepared to give reasons in its defence. If they opposed a measure reported by themselves, what weight could they expect the House to attach to their recommendation?

Mr. SELDEN inquired whether the appropriation proposed by the amendment was founded on estimates from the War Department?

Mr. WHITTLESEY, of Ohio, said it was within his power to give such an explanation as, he trusted, would exonerate the Secretary of War, the members of the Committee of Ways and Means who had concurred in the amendments, and others, from all censure and blame.

When the gentleman from New Hampshire, [Mr. HUBBARD,] as the organ of the Committee of Ways and Means, reported this bill, he went, he said, as soon as it was committed to the Committee of the Whole on the state of the Union, to the Clerk's table, to see whether the appropriations for the harbors on the lakes were in the bill, as recommended by the report of the Secretary of War that accompanied the President's message. He found, to his surprise, that the appropriations for the lakes, with the exception of a small amount for Erie, were stricken out. He went directly to the seat of the gentleman from New Hampshire, [Mr. HUBBARD,] to know why the bill, as first draughted, had been amended. In reply to the question he propounded, the gentleman from New Hampshire said, on adding up the appropriations, they found them to amount to a large sum, and greater than, the committee feared, it would be prudent to recommend; and, on consulting the Secretary of War, he informed the committee that these appropriations might be dispensed with, this year, without the works sustaining material injury. Mr. W. said he was satisfied there was a mistake in supposing the Secretary of War had consented to defer these appropriations; and he informed the gentleman from New Hampshire he should call on the Secretary the next morning. He did so, and was informed that a part of the committee called upon him, and, without asking whether these appropriations were necessary, said, as he understood them, that they found a curtailment necessary, and should strike out the appropriations for the lakes. The Secretary said he might have replied, if they could not be made this year, he supposed they must be deferred to the next; but, having expressed his regret that works so necessary should be impeded, or be permitted to decay, he said he would see some of the committee, and correct the mistake.

Mr. W. said he remarked to the Secretary, if the sums contained in the estimates were objectionable, in the minds of the committee, on account of appropriations for other objects that could not be curtailed or dispensed with, and there were grounds to fear the treasury could not meet all the demands upon it, he would prefer that the sums should be reduced in amount, rather than that the appropriations should be suspended. He said he stated that there were public boats, and the necessary machinery, at all the harbors, which would be liable to be injured, if not lost, if the hands were dismissed for the season; and that, as a matter of economy, it was best there should be something appropriated at all the works. In this the Secretary concurred. He saw the gentleman

from New Hampshire [Mr. Hubbard] a few days after, and he was then informed by him that the committee, or a part of its members, having seen the Secretary of War, had directed him to report an amendment to the bill, reducing the sums, however, from what they were in the estimates, and in the bill as first drawn.

He did not see, he said, that any one was to blame, as it appeared to be a mistake, which was corrected as soon as its existence was known. He had long known that the Secretary of War was in favor of the construction of these harbors; and no one better knew their importance than he did; and he was happy to say that he did not understand a majority of the Committee of Ways and Means decided against the appropriations, because they doubted the power of the General Government to make them, nor because they considered these harbors were not useful; but because they thought the works already constructed would answer for the present, and would not materially be injured if further appropriations were not made this year. If the gentleman from Alabama [Mr. McKinley] would go to the lakes, and see these harbors, and learn personally how necessary they were in carrying on the commerce for that extensive region of country; and particularly if he could retreat to one of them from a storm, he was entirely certain that all except constitutional objections would be removed; and even those, he thought, would be shaken--by the wind.

Mr. GARLAND, of Louisiana, said that he had not been disposed to resist this appropriation; but when he saw a particular course pursued in the House towards one part of the Union, and a course directly opposite to another, he felt his determination much changed. He had voted for the objects in which other gentlemen were interested, but the journals would tell how Louisiana had been treated. He had voted for the appropriation for the Cumberland road, and, provided the money was to be equally distributed, he was prepared to go for other objects of a similar character; but when he saw propositions coming from large influential States, either not opposed at all, or opposed in very soft and modest terms, by the same committee which cried out against and voted down propositions resting on the same principles, if presented by other parts of the country, and by States less powerful, he did not know what to say. He thought gentlemen called with very bad grace upon the West. When any thing was wanted for New York, when New York wanted a large appropriation for a custom-house, or provision for crowds of officers, then they were told that every thing should be done for the West; but no sooner was money asked for a western improvement, than forthwith the doors of the treasury were closed. Then nothing was talked of but economy. Then the House was reminded of the state of the revenue, and the chairman of the committee, himself a western man, came forward and strenuously opposed the appropriation of money which was to be expended beyond the mountains, and a moment after, when harbors or custom-houses were wanted, then all was right and fair. He could not but mark the peculiar course pursued by the two ends of the Committee of Ways and Means. The head and the tail of the committee united to oppose a western measure. But when money was asked for New York, one end of the committee would warmly advocate it, while the other end would scarcely oppose. This morning, the gentleman from New Hampshire [Mr. Hubbard] had insisted that we must have estimates from the Department, before we could move one inch. Both Houses of Congress were nothing, and could do nothing, until the Department should go before. But what said the gentleman now? Here was an appropriation not contained in the original bill, and not supported by estimates; nay, contradicted by the estimates; yet now the gentleman sang another note. Estimates were not to be adhered to. The committee had acted on their own judgment, and the House was to follow them. Private statements were to be received and acted upon, although this morning the most authentic data, when exhibited and urged in support of a western improvement, must receive no credit at all. Then the Department was every thing; then the gentleman cried for official estimates and requisitions from the Department. Now the Department is nothing, and a New York appropriation must be voted blindly. Mr. G. said he was for an equal course. He was a friend to internal improvements; but when he saw that one portion of the country was to be favored, and another portion to be denied, he was for arresting such a course of things. Ninety-one thousand dollars had already been expended on this little harbor at Oswego; $34,000 had been given to carry on the works, and now they came forward and asked for $30,000 more. God alone could tell what appropriations for repairs were yet to come. He should vote against the whole.

Mr. SUTHERLAND said that he had been one of the first in favor of embarking in the gentleman's Red river concern, and the House had given the gentleman's constituents 50 or 60,000 dollars at a dash. Now, this bill contained ten or twelve appropriations for the benefit of States which had helped the gentleman on that occasion; and it would be well enough for the gentleman to remember that he, with others, was embarked in this bill. He must sink or swim with it. They were all in one boat, and they ought to act accordingly. The gentleman had got $30,000, and he thought this was pretty well for the present. Mr. S. had voted to make it $50,000, and would have been willing to have raised it to $100,000, but the House had determined otherwise; and the gentleman had better submit with good humor. He thought the bill did, upon the whole, as much as could be expected. Ohio was well, New York was well, and Pennsylvania was pretty well. It was best to quit debating, and come to voting.

Mr. MERCER said that it had been his fortune to know a good deal about that part of our frontier for which the present item of appropriation was proposed. Gentlemen were mistaken who supposed this harbor to be altogether the work of art. As far back as the old French war, the harbor of Oswego had been considered a point of importance, and a post there had been taken by the French officers. So far from being altogether a work of art, it was the best natural harbor on the southern shore of Lake Ontario. He had formerly, as chairman of the Committee on Roads and Canals, reported an appropriation for the erection of piers and the improvement of this harbor. But, by a subsequent arrangement, the whole subject of harbors had been knocked off from the jurisdiction of that committee and given to the Committee on Commerce. Nobody had ever imagined that the sum at first appropriated for the improvement of this harbor would be enough to complete it. In all these cases, the course was to appropriate different portions of the entire sum requisite, from year to year, according as they could be the most judiciously applied. In the great fortification at the Rip Raps, the money had long since been appropriated and applied; it had been expended in preparing a solid and stable foundation, and there would not a wall be erected for four or five years to come. It required time for all such works to settle. The great church of St. Paul's, in England, had been 30 years in building, and this leisurely course had been pursued in order that the foundations of so ponderous a structure might have time to have fully settled. In providing for the breakwater in Delaware bay, the House had appropriated not more than $270,000 in one year. Whenever works were to be erected where there was a shifting channel, such a course was the only wise one, and he hoped they should not hear again the reproach that works of the

character now in question had not been completed for the sums first appropriated. As to this harbor at Oswego, it would be expedient and proper to make it, if it were for no other object than to protect our navy on the lakes in times of war. No navigation was more dangerous than that of this part of Lake Ontario. Vessels were land-locked, and had no room for manoeuvring in case of a storm. The most violent winds, winds so violent as to carry off the roofs of the houses in Oswego, often arose very suddenly, and vessels could not beat about before them for want of room to do so. They must have secure harbors, or be in imminent risk of destruction. They ought to have them wherever harbors were practicable, and every natural advantage toward that end ought to be seized upon and improved to the uttermost. In case of war with Great Britain, the lakes would have a hostile coast opposed through their whole length to our own, and good harbors would be a means of rescuing much property from capture and destruction.

Mr. EWING said that he rose not to make a speech, but to convince the House that they ought not to lose time in making speeches. He wanted to remind them that they had but a few days more to accomplish a great mass of business, which yet remained undone. He fully estimated the magnificent, enterprising, and glorious course of the State of New York in regard to works of internal improvement. He considered her interests as intimately allied with those of the West. He had gone in favor of the Red river raft, and he should go in favor of Oswego harbor. He hoped to see no jealousy between New York and Louisiana. With respect to the present appropriation, he presumed the House were already satisfied. He thought the Committee of Ways and Means had done much in reporting for works of internal improvement, and his chief anxiety now was that the House should act, and not waste its time in useless debate.

The question was now put on the amendment, which proposed to strike out $30,000 and insert $8,000, for completing the improvements of Oswego harbor, and rejected: Ayes 41, noes 97.

The question was then taken on granting the appropriation of $30,000, and carried by yeas and nays.

The next item was that for the continuance of surveys for the purposes of internal improvement.

Mr. ARCHER, of Virginia, declared himself wholly adverse to this item of appropriation. But as he was unwilling to make an attempt which he knew must be in vain, he should not enter into any argument in the hope of arresting the course of such an appropriation through the House. But he desired to receive from the chairman of the Committee of Ways and Means some explanation of this eternal prolongation of the system of surveys to be made by the General Government. He had been in Congress when this item had been first introduced. He had witnessed its repetition ever since; and he was satisfied that, if the money had been well applied, it was sufficient to have furnished the country with surveys enough for works of internal improvement for at least one hundred years to come. And was there no ground to hope that they were ever to have an end to this system of expenditure? He remembered having pressed a similar inquiry two years ago, respecting appropriations for clearing out the Mississippi river, and a member had at that time replied that the appropriation was never to cease until the Mississippi should cease to flow. He had not, to be sure, had such an answer to the present inquiry, but he believed he might make the same assertion; for he had no hope that this appropriation was ever to cease till the termination of the world.

Mr. POLK said, in reply, that this item had not been inserted in the bill by the Committee of Ways and Means. The bill, as it left their hands, had no such appropriation. The clause had been moved, after the bill had come into the House, by the chairman of the Committee of Roads and Canals. Mr. P.'s own opinion was that the act of 1824 did not require or warrant its insertion. He considered the power of that act as expended so soon as the first appropriation had been made under it. As soon as that was done the law was *functus officio*. In confirmation of this view, Mr. P. here quoted the act of 1824. He had always concurred with the gentleman from Virginia, that a repetition of this appropriation for surveys, after so many years, was wholly uncalled for, unless, indeed, the Government was still disposed to sanction such a grand scheme of internal improvement on a general scale, as was contemplated by the law of 1824. But that the present administration was not disposed to do. Mr. P., however, would not go into the general question. Every body must remember that the original introduction of the scheme had led to a very able and protracted debate, in which a highly distinguished gentleman from Virginia [Mr. Randolph] had largely participated.

Mr. MERCER said that it was always painful for him to address the House, and it was especially so to be called upon at so late an hour of the day to answer so general and indefinite an inquiry as had been proposed by his colleague. It was well known that the Government had employed a corps of very able and scientific officers, with a view to ascertain the actual condition of the country, by an examination of its surface and an investigation of its capabilities and physical resources. And while engaged in this useful design, they had not only demonstrated the practicability of many designs of improvement, but had also rendered certain the inutility of others, and thus, by the expenditure of a comparatively small amount of money, had prevented the misapplication and waste of sums infinitely larger. Such a corps was valuable to the country, not only for the purpose of surveying the proposed routes of canals and railroads, and ascertaining the best mode of improving harbors, and the navigation of rivers, but it would be worth while to employ and to pay them, if for no other object than to construct a good map of these United States. Such a design was considered of great public importance by European Governments, and was still in a course of prosecution at vast expense, although those countries were so much more thickly settled than ours, and their topography so much better understood. We had already acquired an increased knowledge of our country from the prosecution of these surveys, which was highly valuable both in a civil and a military point of view. On that ground, doubtless, many voted for the appropriation who were not the advocates of such a system of internal improvements as the gentleman from Tennessee [Mr. POLK] had alluded to. Mr. M., however, and those who thought with him, had given the same vote for additional reasons connected with an approval of that system. Mr. M. was not disposed at present to enter into the general discussion, but if the gentlemen would name a day, or if they would agree to protract the session, he was ready to meet them. But at present he had not courage to do it, because he did not possess moral courage sufficient to continue a debate when nobody was listening.

Mr. ADAMS, of Massachusetts, regretted that his friend from Virginia did not get the same definitive answer to his present inquiry which had been given to that made by him respecting the works on the Mississippi river. Mr. A. was prepared to give it to him now. And he now said to that gentleman, and to all others who heard him, that he hoped the expenditure of money for the physical improvement of this Union, and the discovery and development of its natural resources, from an examination of every part of its surface, would cease only when the Mississippi ceased to flow. And this he humbly presented as his prayer to Almighty God. He trusted

that no other answer would ever be given to such an inquiry. He was sorry the item had not been introduced as a regular portion of the bill, by the committee who reported it. Why should it not? Did gentlemen contend for engaging in works of internal improvement without previous surveys? Surveys were the introductory means of ascertaining what the objects were to which improvement could best be applied. If they ceased to authorize surveys they must cease the improvement of the country. Congress had long continued to make appropriations of large amounts of money for works which were proper and highly useful in themselves, and which were within its competency as works of a national character. A portion of the country had been examined with a view to such objects. But was there a single locality, ten miles square, in our whole domain, which was not susceptible of some improvement? How was this to be known but from surveys? Those who considered this as an improper appropriation ought to resist the annual bill which was introduced into the House for works of internal improvement; in which works, he thanked God that the nation still spent millions every year, in spite of all theories. Was it not a sacred duty to apply the wealth and means of the country in rendering this country a more fit residence for our posterity? Every dollar thus expended was a debt laid upon posterity, and would be by them duly appreciated. Had not the God of heaven given us our country to be improved, and what was the tendency of the contrary system? It led us back to the savage state. It brought back our population to the state of the hunter. He it was that was the great adversary of internal improvements. He hoped that his friend from Virginia would cease to propose such inquiries in future, and that he would admit the candid answer which had now been given him as a good and sufficient reply.

Mr. ARCHER replied, that, out of deference to his friend from Massachusetts, he should take the answer which he had given; but he could not receive it as satisfactory, when he saw in it the determination to continue this same system of expenditure for at least ten years to come. The gentleman had now openly avowed the purpose of repeating this appropriation every year, so long as the Mississippi should continue to flow. He had not the least doubt of his sincerity, nor that such was the design of others who acted with him. And he called the attention of the House to it, in order that no man might vote for the present item of appropriation who did not mean to vote for it as a perpetual charge on the Government. He wanted to have it distinctly understood, whether this Government was for ever to go on accumulating materials for future works of internal improvement. Were he even the greatest friend to works of that kind; did he even hold the enormous opinion that every Government was at liberty to do whatever it pleased, provided it believed a measure to be for the public good, still he could never consent to this accumulation of surveys. But he for one utterly denied that the General Government had any right to engage in works of that kind, unless the people had given them authority to spend their money in that way. He was as anxious to see every portion of this country improved as his friend from Massachusetts ever was, or could possibly be. But the real question was, whether Congress had a right to take money from the pockets of one portion of its constituents, and apply it, without their consent, to works of improvement in another quarter of the Union? There lay the real point of difference between himself and his respected friend. He now took issue with him on that question, and he hoped the House would do the same.

Mr. ADAMS replied that his friend from Virginia had renewed his inquiry in the form of a constitutional question, as to the right of Congress to engage in internal improvements. Mr. A. said it would be remembered that it was not he who had raised that question. He considered that as a question settled. It had been a settled question for these ten years. It was not now in issue, neither should it be in issue between him and his friend from Virginia. The principle was recognised in every appropriation which Congress had ever made for such objects. He would not enter into the discussion of it on the present bill, but he assuredly would, and that with the greatest pleasure, if the gentleman would agree to an extension of the session. He had no sort of objection that the question should be discussed, and rediscussed, again and again, until not a voice should be heard in opposition. As to the present appropriation, it was both authorized and required by the act of 1824.

The question was then put on concurring with the above item for surveys, and decided in the negative: Yeas 90, nays 103. So the House refused to concur.

Mr. MERCER, believing that the House had been taken by surprise in the vote just given, moved to adjourn, but withdrew his motion at the request of Mr. BEATY, who moved to lay the bill on the table; which motion was decided in the negative by yeas and nays: Yeas 66, nays 122.

The question then recurred on the item of $29,000 for improving Deep creek.

Mr. BEATY moved to amend the amendment by adding $50,000 for improving the navigation of the Cumberland river.

Mr. B. said he would detain the House as little as possible, and only rose for the purpose of calling its attention to a few facts in explanation of his proposition.

The Cumberland river was susceptible of being made navigable from its mouth up to the falls, a distance of something like five hundred miles; all of which distance it passes through a rich, fertile, and highly agricultural country, and upon its banks, a short distance below the falls, are some of the largest bodies of stone coal ever found in any country.

One of those banks extends, with but little interruption, about five miles in length, and from three to five feet thick. This bank, with sundry others in the same neighborhood, are now opening, but owing to the unimproved state of the navigation of the river, the citizens living upon its banks and in its vicinity above Nashville, are often deprived of a market for the products of the fertile soil upon which they live, that being their only outlet. The length of the Cumberland river, from where it heads in the State of Kentucky to where it enters the State of Tennessee, taking its meanderings, is something upwards of three hundred miles. In addition to the large quantities of agricultural products raised upon and in the neighborhood of the said river, there is now manufacturing, not far distant from said falls, a very large quantity of salt, which, if the river were made navigable, would be sent down and sold cheap to the settlers living on its banks and within its vicinity.

The agricultural products of seventeen counties lying above Nashville, in the State of Kentucky, and many counties in the State of Tennessee, are entirely dependent upon the Cumberland river, as the only outlet by which their citizens can send their produce to market. In the present unimproved state of the navigation of said river, it cannot be safely descended with loaded boats; in ordinary or common freshets they have to be of the lightest kind; the consequence to the agriculturists is, that their property frequently lies on hand over the year, and becomes damaged and often lost to the owners, and they are at all times thrown into the rear of the market, and have, in consequence, to take reduced prices. Many of the citizens of Tennessee are largely engaged in the manufacture of iron, below and in the neighborhood of Nashville; they are anxious to contract for large quantities of

stone coal, to enable them to prosecute the work of manufacturing successfully. He did hope that it could not be successfully urged against this application, (asking for an appropriation to improve the navigation of the Cumberland river,) that it is not of a national character. By examining the map, it will be found that the Cumberland river heads in the mountains of Kentucky, enters and passes through the State of Tennessee, empties into the Ohio river, and mingles itself with that great mass of water that passes through the Gulf of Mexico.

Several steamboats of the second class have this year passed up the said river to within forty miles of the falls, but were unable to take in full loads, in consequence of the unimproved state of the navigation of said river. The Cumberland river is as susceptible of being made navigable for steamboats as the Tennessee river, and it is of as much importance to the citizens of Kentucky and Tennessee that it should be improved, as it is to the citizens of Alabama and Tennessee that the Tennessee river should be improved; the one is as much a national subject as the other. We look upon the public domain as the common property of all the States, and the money arising from the sales thereof belongs to the Treasury of the United States, till otherwise disposed of by law. We see, by a bill upon our desks, (No. 344,) it is proposed to appropriate 400,000 acres of the public lands in the State of Alabama, for the purpose of improving the navigation of the Coosa and Tennessee rivers, and connecting them by a canal, and also for the improvement of the navigation of the Holston river. It is proposed by said bill that the improvement on the Tennessee river shall commence at the first obstruction above the State line. It is well understood that there is no port of entry above the State line on the Holston river, and it is further well understood that the Tennessee river, from the State line up, is but little more than half as large as the Cumberland river up to the highest point proposed to make it navigable. We ask the House, if they cannot give us money to improve the navigation of the Cumberland river, to do us the same justice that is doing to the Tennessee, Holston, and Coosa rivers, by giving us a portion of the public lands to improve the navigation of the Cumberland river, under the same rules and regulations that the lands are given to improve the aforesaid rivers. He would beg leave to suggest that the mouth of Laurel river is the highest point to which the Cumberland river ought at present to be made navigable, and that it would take from a hundred to one hundred and fifty thousand dollars to complete the work; but all asked for the present year was fifty thousand dollars. He begged leave further to suggest the propriety (should this application meet with the approbation of the House,) of dividing the sum appropriated so as to commence the improvement both at the upper and lower ends of the navigation. He could refer to many appropriations made by law for objects of a much less national character than the Cumberland river, but declined it, supposing the committee well acquainted with these laws. Mr. B. said he hoped this application in favor of western improvement would not be resisted. He was sorry to have detained the House so long, but justice to his constituents, to the interests of the West, as well as to the whole community, impelled him to urge the adoption of this item.

Mr. PEYTON also supported the proposition at length.

Mr. MILLER, of Pennsylvania, explained his reasons for moving the previous question. He had no interest in the bill. He had inquired, and was told that there was but one amendment not acted on by the House. He had no wish to cut off the amendment which gentlemen wished to propose.

Mr. LANE moved an amendment. He did so on the ground that whatever they did that night they would undo the next morning.

The vote on the adjournment was taken by tellers: Yeas 81, nays 49.

The House then adjourned.

THURSDAY, JUNE 19.

Mr. HORACE EVERETT, from the Committee on Indian Affairs, reported the following resolution, which was read, considered, and agreed to:

Resolved, That Tuesday next be set apart for the consideration of public bills reported by the Committee on Indian Affairs.

Mr. E. remarked that, as these bills were of deep importance to the Southern sections of the country, he hoped that one day, which might suffice, would be spared for the purpose of taking them up.

Mr. POLK said he felt as desirous as the honorable member from Vermont that these Indian bills should be acted upon, but evident embarrassment would arise, if the House would give precedence to other business over that which was actually indispensable. He therefore suggested a postponement of the resolution for a few days, that they might better see their way.

Mr. H. EVERETT replied that he had no objection to name Saturday, if that day should be more convenient to the House than the other.

Mr. WHITTLESEY hoped that Saturday would be left for the business to which it was especially assigned, viz: private bills.

Mr. POLK moved that the consideration of the resolution should be postponed until Saturday.

Mr. DICKINSON, of Tennessee, contended that it was important, as this was the first time any bills had been reported from the Committee on Indian Affairs, which were likely to prove satisfactory to the people in the Southern sections, that a day should be assigned for their consideration, so that the action of Congress, this session, might be secured to them. The bill for the organization of the Indian territory, he said, would not yield in importance even to the appropriation bills; for he believed there would be a saving effected by it to the Government (when passed) of nearly $100,000 per annum; and it was equally necessary to the Indians themselves, to enable them to know the terms upon which they could form themselves into a confederacy.

Mr. ASHLEY agreed in opinion that the bills were of much interest, but he considered that two of them were somewhat defective, and should not be acted upon this session. The one alluded to by the member from Tennessee he had no objection to take up, and would suggest that the resolution should specify it only, leaving the others to stand over until next session.

Mr. H. EVERETT said, as the House were as competent then as at any other time to determine whether they would assign a day for the consideration of these important bills, he thought that they ought to do so.

The motion to postpone the consideration of the resolution was rejected: Yeas 60, nays 65.

Mr. POLK moved to amend the resolution by inserting "Wednesday;" which was finally agreed to, and the resolution, as amended, was adopted.

SALARIES OF TERRITORIAL JUDGES.

The bill making increased appropriation for the salaries of judges in the Territories of Michigan, Arkansas, and Florida, being on its passage,

Mr. McKAY asserted that there was no necessity for these extra payments to the Territorial judges.

Mr. LYON maintained that no judge could live on a less salary in Michigan than was contemplated by the bill.

Mr. HAWES agreed with the member from North Carolina, that the salaries of these judges in Michigan

were rated too high, being higher than was paid in his own State; and thought that if in that savage country, where there were none but a few British traders living, a judge could not exist upon a less salary, the Territory was not worthy to be entitled to send a Delegate to Congress.

After some further remarks from Mr. EWING and Mr. WILDE,

The bill was read a third time and passed.

STATE DEPOSITE BANKS.

Mr. POLK rose and notified the House that he would on to-morrow ask them to proceed to the consideration of the bill reported from the Committee of Ways and Means, regulating the terms upon which the deposites were to be held by the local banks.

HARBOR BILL.

The consideration of the bill making appropriations for the improvement of certain harbors, and the removal of obstructions in certain rivers, was resumed.

The question pending before the House, being to concur with the amendment agreed to in Committee of the Whole, appropriating 29,000 dollars for improving that branch of Elizabeth river called Deep creek; to which was moved an amendment, of 50,000 dollars, for the improvement of Cumberland river—

Mr. BEATY withdrew the motion for the latter amendment; after which,

Mr. MERCER said that he was desirous of taking the sense of the House on the following amendment, which he proposed as a kind of test to the House, viz: "For defraying the expenses of surveys for 1834, including therewith payments for arrearages incurred for surveys in 1833, 29,000 dollars."

Mr. M. said he made this proposition in consequence of the rejection, yesterday, of the appropriation of 30,000 dollars for the same purpose, making an appeal to the good sense and candor of the House to support it upon those principles of legislation which ought always to be regarded by them.

Mr. FELDER called the attention of the House to what he deemed would be a sufficient answer to the charge of effecting any object by "a side blow," (as Mr. MERCER had termed the refusal of the proposed appropriation.) It was a section at the end of a bill reported by the honorable member from Virginia himself, and which proposed to grant 20,000 dollars more for surveys. So (said he) it would appear that the honorable member and his friends were not content with proposing a direct appropriation of 30,000 dollars for that purpose, but they must tack in 20,000 dollars more by a clause in the bill which he read. Mr. F. was, however, rejoiced that the public attention was at length awakened, as he should be if the whole system should be put down, by a side blow, or any blow, and that the improvements of the country should be left, where he contended they ought only to be, in the hands of the States and the people, and not in those of the General Government. The recent riots and disturbances on the Baltimore railroad and on the canal, he said, was a part of the fruits of the system that had been adopted, and which ought to be deplored.

Mr. H. EVERETT said he regretted that the gentleman from Virginia [Mr. MERCER] had made this motion. It was presenting the same question that was decided yesterday, without evidence of a change of opinion, in any one of the majority. He could not suppose that any one who voted yesterday against 30,000 dollars would to-day vote for 29,000. If there was any change of opinion, he should have expected it would have appeared in a motion to reconsider that vote. No such motion having been made, he considedered the present motion as hopeless. Considering it, then, as hopeless, he would now address himself to those who represented the interior sections of the country, and ask them to consider the situation in which they found themselves now unexpectedly placed, and the course which the interests of their constituents imperiously called upon them to pursue. The State he in part represented had uniformly supported the policy of internal improvement, in relation to national objects, wherever presented—not restricted to any tide-water line. They acknowledge no principle that marked any other distinction than the nationality of the object. The right to make internal improvements was derived from the power granted to Congress to regulate commerce with foreign nations and among the several States. He would not now go into an argument on the constitutional question. It was sufficient for his purpose to say that, if the power to regulate commerce with foreign nations authorized the improvement of harbors, the power to regulate commerce among the several States was equally broad, and authorized the improvement of the navigation of rivers, the construction of roads and canals. He was not aware on what ground a distinction could be made. On this broad principle, and on this only, had the people of the inland States advocated the doctrine of internal improvements; recognising no other limits than that the improvement should be of a national character. But what, he asked, is the present state of things? what is the modern doctrine? It is, that the constitution extends no further into the country than tide-water—in no case above the location of a custom-house. This is the practical doctrine: and how is it carried out in this House? You have, said Mr. E., two committees—the Committee on Commerce, and the Committe on Roads and Canals. Every thing that relates to harbors is referred to the first committee; to the second is referred whatever relates to the interior of the country—to rivers, to roads, and canals. The bills reported by the first are permitted to pass as constitutional; while those referred by the second (and they are yet permitted to report bills) are either not acted on, or, if passed, are sure to be met by the veto. Thus internal (in the proper sense of the word internal) improvements are to be abandoned. Every thing is to be done to facilitate foreign commerce—nothing to facilitate commerce among the States. Twenty, fifty, or a hundred thousand dollars may be expended on a petty harbor on the seaboard, or on the lakes; while the navigation of rivers, on which a hundred times the commerce was carried on, was to be left without any improvement. Compare the commerce that must pass on the Cumberland river with many of the harbors in this bill: which had the better claim to a national character? which was most worthy of the attention of the Government? Nor is this all: the vote of yesterday, striking from the bill (as reported by the Committee of the Whole) the appropriation for surveys, has cut off all hope for the future, until there shall be a change of policy. The country had looked to this appropriation as the germe of internal improvement, to be carried into effect not only by the aid of the Government, but also by individual enterprise. In the latter view alone it was very important. Few individuals would be at the expense of making the necessary surveys to ascertain the practicability of improvement, when, if unsuccessful, it must be at their own expense. He would refer to many of the works of New York, which were undertaken in consequence of Government surveys. He considered this refusal of the appropriation for surveys as an express annunciation to the interior States that, in future, they were to have no lot or portion in the improvements of the country; that, as to them, the system is to be totally abandoned. And he now appealed to them to say, whether they would consent thus to be proscribed. Much as he had ever been in favor of internal improvement, he would not consent to it under such injurious limitations.

Was it not their duty now to unite and to act in concert? and, so long as the present policy shall prevail, to insist that tide-water improvement shall be carried by tide-water votes? He regretted to find himself obliged to take this course, in self-defence. He was as much as ever the friend of internal improvement, and all he asked was, that equal justice should be extended to the interior and to the seaboard. As he had no expectation that the amendment now moved would prevail, he did hope the country would unite against the passage of the bill, as the only means left them to obtain what he believed to be their just rights.

Mr. LOVE agreed that it was become particularly necessary for the people of the West to stand by each other, as he avowed he meant to do, and not support a single proposition for improvement elsewhere, if the members from the other parts of the Union, for whose appropriations he had uniformly voted, would not extend their aid to those introduced for the benefit of the West. He replied to the argument of the honorable member from South Carolina [Mr. FELDER] with much spirit; not, however, blaming him, supposing that, as a disciple of the school of nullification, it was perfectly natural for him to oppose improvements by the General Government. He particularly adverted to the argument in relation to the riots on the railroad as being a result to be condemnatory of the whole system. This argument, he thought, could only be equalled by that objection raised by a Kentuckian to turnpike roads, viz: "that he feared they might wear out his horses' shoes more than the good old clay roads." He, Mr. L., would, however, treated as the people of the West had recently been, now warn the members representing it, not to vote for a single improvement more, unless the eastern members would, in turn, support those in which the West was interested.

Mr. ASHLEY considered that the vote of yesterday, rejecting the appropriation for surveys, was certainly the forerunner of an endeavor to be made to put down internal improvements, particularly in the West. It was his opinion that, if Congress persisted in any course in reference to internal improvements, that should be considered partial and prejudicial to the West, thereby creating, in any degree, a barrier between the East and West, it probably would ultimately beget a feeling that might endanger the Union. The members from the West had been consenting, from the beginning of the Government, to make appropriatons for the seaboard, to the amount of millions annually, whilst every thing for the benefit of the West was to be opposed. Was this fair? No. He considered that his State (Missouri) especially, had been very indifferently treated. Mr. A. stated the capabilities of the Missouri and Yellow Stone rivers to become navigable up to the very base of the Rocky mountains, with but a little aid to remove obstructions from them. He referred to the extent of waters already navigated by steamboats, and called upon the House to anticipate what would soon be the commerce of that part of the Union.

Mr. EWING said that the part of the country from which he came would hold him recreant to his duty should he listen in silence to remarks such as had been made on this measure. He was aware that his friends at the South considered this whole matter of the construction of roads and canals by the General Government as unconstitutional, and were consequently opposed to continuing a system of surveys by way of preparation for it. He had hoped that time and circumstances would have operated to soften these prejudices; but, from what he saw and heard, he was induced to fear that no hopeful change had yet taken place, or, if it had, it was only in a few solitary instances. He could not agree in the assertion that this system of surveys was a matter of a sectional character. He considered it as a measure of general and strictly national concern. But, if gentlemen would view it as merely a mode of scattering the money of the Government, was there any thing unfair that the West and the North should share in such a benefit? The South had one of its own members at the head of the Post Office Committee, another at the head of the Committee on Roads and Canals. The Atlantic coast had had a large share of the public expenditure in forts and custom-houses. For what had this money been spent? To benefit those only who dwelt in that section of country? By no means. It had been expended for the common defence and for the general welfare of the Union at large. Mr. E. held that we were all one people; and when the men of the East had their harbors and their coast defended, the men of the West considered these defences as their own. They were for the safety of the whole country, not of a part of it. The argument used by some gentlemen would lead any one to the conclusion that it was money alone that was sought for. But surely it came with an ill grace from the advocates of strict construction, who should be the very last to put money before the constitution. But had not the General Government power to regulate commerce between the States, and to establish post offices and post roads? What did gentlemen mean? Did they want to separate the Western States from the rest of the confederacy? If such was their desire, the people of the West would not object, although they would soon find that the Union had lost its dearest jewel. If he rightly understood the gentleman from South Carolina, [Mr. DAVIS,] he sought to impress the House with the belief that the entire system of surveys and internal improvement was radically corrupt. If so, how did it happen that he and other southern gentlemen had voted for so much of the system as related to works at the South? How came it that his friends from North Carolina had more than one appropriation for their benefit in this very bill? A gentleman near him said that the bill contained nothing for North Carolina, and now he understood him to say that nothing had been proposed for that State save by one of her members. Mr. E. was happy to hear of one. He hailed the light which was breaking on his southern friends. Of one thing he was sure, that the House had not heard one voice from North Carolina raised in opposition when that State was to receive a benefit. No, their scruples then were all hushed. They seemed to reserve their conscience for expenditures at the West. Did gentlemen forget that the great valleys of the West were soon to be filled with a population ten times as numerous as that which now inhabited them? And how were all these countless multitudes ever to obtain the light of science and the blessings of public school instruction? How were their streams to be made navigable, their fertile country explored and traversed by canals and railroads, if such doctrines were to prevail? Where was the corruption of a system which provided its benefits alike for all? If there had been a discrimination made; if the bill had declared that these surveys were to be made only in the new States, there might have been more in the objection. Did gentlemen wish to stop the channels of communication by which light and knowledge were to penetrate into the Western country? "If ignorance be bliss, 'tis folly to be wise;" but Mr. E., not holding that sentiment, went for the dissemination of knowledge. He wanted the country examined and explored, and its resources understood and developed. Gentlemen talked about what the States would do. What had the States done? What had South Carolina, for example, done towards promoting the system of internal improvement? She had indeed made a railroad, and speculated on the credulity of her own speculators. He did not blame her. She had done very right; he could not wish her sand richer, but he must be permitted to say that he did not envy her its fertility, of which so much was said. Let the West supply her with

provisions; let the North furnish her with manufactures. Both contributed to the general prosperity. He wished her nothing but ease, comfort, and affluence. Yet, while gentlemen were surrounded by the pleasures of wealth, they thought but little of the hardships encountered by the people of the West, and seemed to grudge them any participation in the common benefit of the Government. Why this should be, he knew not; probably it was the effect of habit, and had grown by time. But, surely, if gentlemen would look at the noble streams of the West, and at that noble people which inhabited their banks, and duly considered the fraternal relation which existed between them, they would lay aside their narrow scruples, their false and contracted interpretations of the constitution—notions which could no more find a place in the minds of the people of the West than it would be possible to recal the clouds of yesterday. But when the day should come that the West must be thrown on its own resources, the southern gentlemen might find that they were as ready for action, their resources as good, and their arms as strong, as those who held a different construction of the constitution.

Mr. E. had always thought that the constitution provided for the enjoyment of equal rights by all the citizens of this republic. He had always thought that the power to provide for the public welfare, to regulate commerce between the States, and to establish post offices and post roads, meant something. It was time that a doctrine should be exploded, which effectually debarred the Government from promoting the good and providing for the happiness of those who had established it. It was time that gentlemen should give up their dread of phantoms, and their fearful apprehensions of "light-houses in the skies."

This system of narrow construction was one which reflected but little credit upon its authors, by many of whom it was certainly never heartily believed. Mr. E. did not mean to charge all those with insincerity who now professed to hold these sentiments, yet certainly the questions which they so delighted to raise were questions long since settled and put at rest, if any thing could be said to be settled under this form of Government. If they were not settled by this time, they never would be. But what, he asked, would be the practical effect of rejecting this provision for surveys? It would distinctly show the people of the West that they had nothing more to expect from this Government: that the Government intended to pocket the proceeds of the public lands and then to cut off those who had purchased them from all access to their relatives and former friends. Gentlemen might talk of their constitutional difficulties, and of the result of the last election, but he could assure them that ten presidential elections in succession would never be sufficient to put down this system of internal improvements. It was a question which depended not on constitutional lawyers, but upon the people of the United States. It was for the people to say how their own constitution was to be interpreted. It was for the people to say whether the Government should have power to tax them, but none to dispense the benefits of taxation; and when the people once uttered the words, *it shall be so*, so it would be. Why did gentlemen tell the people of the South that this was a system intended to hunt them down? They often boasted that their opposition to the system was disinterested, and it seemed to give them pleasure to speak of it as of a daring character. It was so. It certainly would be considered daring in the highest degree in that part of the Union from which he came. Mr. E. had understood, and most assuredly the people of the West had believed, that the presidential doctrine on this subject differed widely from that advancced by gentlemen of the South, and the journals of Congress were publicly read at the polls, to prove, by votes given, that this was so. Yet the nation had witnessed what was the result; the nation had witnessed, what he and his constituents had discovered to their cost, that great men could say one thing and do another. Such was not the course which had been promised and held up to the people of the West.

Here the course of Mr. EWING's remarks became nearly inaudible, from the confusion in the hall. When he was again heard more distinctly by the reporter, he proceeded to observe that when, at the commencement of the session, he had made an appeal to the House for aid in behalf of the West, and had adverted to the magnanimous course pursued by the honorable chairman of the Committee of Roads and Canals, [Mr. MERCER,] he had been reproved and chid for showing too much earnestness. It might have been so; but when he considered what a noble fame this Congress might have acquired, and when he thought of the sanction which would have been put upon its deeds by an approving people, he could not but wish that he possessed the power of impressing others, as he was himself impressed, with the importance of the present measure to the improvement and prosperity of the country. He trusted that, when this Government was to cease, this system of investigation would cease also, and never till then. He trusted the House would revise the vote of yesterday, and that they would continue to maintain this policy, and give it their repeated sanction, till any thing in the form and semblance of opposition to it should be frowned out of existence.

Mr. BYNUM, of North Carolina, said that he should have left the task of defending the character and principles of the South to others who possessed more influence than so young a member as himself, had not gentlemen referred in a particular manner to his own State. Before presenting such remarks as suggested themselves to his mind, he begged leave to return his thanks to the gentleman from Kentucky [Mr. HAWES] for the honorable stand he had taken in behalf of the constitution: it did him honor. He must also present his acknowledgments to the honorable gentleman from South Carolina, [Mr. DAVIS,] who had, in so forcible and convincing a manner demonstrated the unfitness and utter incompetency of the General Government to carry on a general system of internal improvements. It was an object such a Government never could accomplish, and the attempt was, and always must be, attended with a most prodigal waste of the public money. The House was now called upon to appropriate $29,000 for the continuance of the surveys of roads and canals, rivers and harbors. And what was the object of making these surveys? That the Department might be able to point out particular works of internal improvement, and recommend them for the adoption of Congress. It was true that the House retained the option whether they would order the works or not. But in this whole business the Government was subjected to every species of importunity. Those engaged in making the survey had an interest that the works should be undertaken and carried on: and little did they care for the national character or public expediency of the works, provided their own pockets were well lined with the public money. If this system should stop, these people would at once be thown out of employment. The House ought, therefore, to be very distrustful of the reports and opinions of these surveyors and engineers. And all this was carried on from year to year in the very face of the uncertainty of its being constitutional, or rather the certainty of the contrary. The result of the late presidential election proved that, in the view of the people, the system was against the constitution. Indeed, when the question was put to any man of common sense, there could be but one opinion in the case.

In Mr. B.'s opinion, the entire system was in the very teeth of the constitution. He agreed with his honorable

friend from Kentucky, [Mr. HAWES,] that the first law which sanctioned it was a stab at the vitals of the constitution. What had experience shown? What benefit had accrued to the country from these surveys and their consequences? Instead of any benefit, the House had heard enough from the friends of the plan themselves to convince any man of its impolicy. It had been stated by an honorable gentleman near him, that, notwithstanding four millions of dollars had been expended on the Cumberland road, it was, after all, nothing but a quagmire. This one fact spoke a volume against such undertakings. Four millions of dollars to make a road 130 miles long, and, after all, it was a quagmire! Who could guaranty that, after the expenditure of four millions, or of eight millions more, it would not still remain a quagmire? Some people there were, however, who were determined to remain ignorant, notwithstanding all the experience in the world. This Cumberland road had turned out a total failure, and now the House were modestly asked to appropriate 600,000 dollars more, by way of a finishing stroke, and then to give up the road to the States in perfect despair. The Government could not think of carrying it on any longer. As to the question of constitutionality, although high authority was quoted on both sides of the question, and, therefore, it might not become so young a gentleman to undertake to decide, yet for himself he had no doubt upon the matter. He believed Congress had no power to pass any such a law. In deference, however, to great names, and in fairness to those who differed from his judgment, it must be admitted that the constitutional power was still a mooted point.

Let him turn, then, to the question of expediency. What had this project realized? The Cumberland road was one of the most conspicuous examples, and that was a quagmire, given up in despair to the management of the States.

Mr. B. admitted that no man had stronger prejudices as a partisan than himself; but he trusted there was no man in that House who would sooner relinquish his prejudices for the interest of the country at large. He regretted greatly to hear such frequent appeals to sectional feelings and sectional interests. Legislation, on such a basis, was not calculated to perpetuate the blessings of our free and happy institutions. To broach such distinctions was to scatter firebrands through the country: it was to promote schism, and weaken the nation by dividing its population. As to the people of the West, Mr. B. said that his acquaintance with them was but of a partial kind; but if there were a people on earth which he truly respected, it was the people of the Western States. If he felt one emotion of patriotic interest for any portion of the earth, it was for that fine region of our country. Such jealousies had no place in his bosom; they were foreign to his nature; and, therefore, such appeals would never have any effect upon him. Several gentlemen had invoked the aid of the Eastern States, and seemed to consider it as a matter of course that, because some of these projects were located in the eastern part of the Union, that consideration must be a sufficient motive with them to support the bill in all its parts. But, as for himself, no matter where an improvement might be proposed, if it was to be carried on by the General Government and not by the States, he should oppose it on the principle that all such undertakings had a tendency to corruption. The gentleman from Indiana [Mr. EWING] had adverted to a small item of appropriation for North Carolina. It was true that the bill did contain an item of that kind, but Mr. B. had not voted for it. He had not, to be sure, objected to its passage, nor was he bound to do so in consistency to his own principles; for, if the country must have the system, why should not North Carolina have her share of the disbursements it occasioned? But, whatever his own State might or might not receive, he considered the system as most impolitic and most unwarrantable. But it had been said by a gentleman from Missouri, [Mr. ASHLEY,] that, whoever struck at this system, struck at the union of the States. Now, Mr. B. would aver that there was no man in this country, whether on that floor or off it, more heartily and unalienably attached to the union of these States than he was; but let gentlemen's conclusions be governed by experience, and for himself he declared, so help him God, that if this system were to prevail, it would, as he believed, be *ipso facto* a dissolution of the confederacy. And why? Need he call upon gentlemen to reflect upon a period not more than a year ago, when the entire South had been convulsed to its very centre. And why? Because this system of internal improvements, together with other kindred measures of a like character, had been drawn so tight, and urged so relentlessly, that one portion of the Union had become resolved to endure it no longer, but had determined to resist it even at the point of the bayonet. What had been the consequence? Their brethren had become convinced of the error, had magnanimously met them in the spirit of compromise, and had loosened the fatal grasp? But let this system of internal improvements be persevered in, and what must be the inevitable consequence? What but a continuance of its sister, the tariff? Yes, the tariff, at the very name of which every southern bosom was convulsed; at the mere mention of which every southern man felt his rights to have been violated; rights which, to every true American, were dearer than life. Yes, he warned his southern brethren that this Government would have to return to the tariff system; it must re-enforce the American system, in other words, the national republican system. That object of southern hatred must be revived; and he warned his northern and his western brethren that, however the people of the South might love them, and be disposed to cleave to them, yet this was a point which they never could or would yield; and, if it were attempted to be forced upon them, they would meet it with bayonets in their hands. No man in this land was more determined than he to stand against all rebellion or nullification; but let that system be brought back again, and gentlemen would hear but one voice to the south of the Potomac. On this point the whole South had but one mind; and, though they differed among themselves, it was not on the question of resistance, but only as to the mode in which resistance was to be effected.

Mr. BEATY, of Kentucky, now inquired whether the gentleman had had allusion to him, or to any thing he had said, in the remarks which he had just dropped?

Mr. BYNUM disclaimed any allusion to that gentleman's remarks. He had reference to what had fallen from a gentleman in a different quarter of the House. He reminded gentlemen of the stand which had been taken on that floor by a highly distingnished citizen of Virginia. He alluded to Philip P. Barbour, when the system had first been avowed. That acute politician and virtuous statesman had seen its tendency, and resisted it at the threshold; and subsequent experience had convinced him of the correctness of the position he had then assumed. The gentleman from Indiana, [Mr. EWING,] however, comforted himself with the thought that, after some years more, the people of the South would become convinced of their error, and would advocate the system as warmly as they now opposed it. But, for himself, he was a southern man, and the longer he lived, the more firmly he was convinced that it was impossible, in the nature of things, that such a system could ever be advantageously carried on by the General Government. These undertakings ought to be accomplished by the States. This sentiment was confirmed by southern experience. In Virginia, for instance, every part of the system which had proved beneficial to the State, had been effected by

the State itself. But, for the United States to carry on such works, even laying aside all constitutional scruples on the subject, was in itself preposterous. What opportunity of superintendence was possessed by a central government? The very idea was utterly inconsistent with any system of human reason. He hoped the amendment would not prevail; he hoped and trusted that, henceforth, no appropriation would ever again be made by Congress to survey one yard of earth. So far as the system had been now commenced again, he, at least, should throw himself in the way of its progress. It could only end in pauperism and prodigality, and necessarily involved a renewal of that tariff system, to which he well knew that one portion of this Union would never submit, and which he trusted the other portion would never attempt to enforce.

Mr. LANE regretted exceedingly that any allusion should have been made to sectional, or to political, or party feeling, on an item of appropriation such as was now under the consideration of the House. Such feelings had nothing to do with the matter. He did not believe that it had had any agency, or would have any, in deciding the policy to be pursued. He had a better opinion of gentlemen on that floor. He did not perceive that the West was any more interested in this appropriation than other sections of the country; nor did he believe that western members had any such view in supporting the measure. The House had been liberal to the Western States; it had passed item after item, and bill after bill, for their benefit. It had passed the pre-emption bill. It had given all that could reasonably be asked towards completing the Cumberland road. Indiana had got her $150,000. Was it for the West to complain of their brethren from the South, the East, or the North? For one, he was of opinion the West had been liberally dealt with. He insisted that this was no sectional bill; it was a bill in which all parts of the United States were equally interested. All it proposed was, that the Government should be empowered to employ its body of scientific officers in exploring the country and ascertaining its capabilities for improvement. When they had ascertained that a certain work for improvement was practicable, it did not follow that the General Government was to construct the work proposed. When a State or a company contemplated forming a railroad, they often made application to the General Government for the aid of competent engineers to examine the ground, and determine the site of the road. When this was done, they went on to complete it from their own resources. All that this item did, was to enable the Government to afford facilities of this kind when they were needed. And they were continually in requisition. Was not every State in the Union calling for surveys of this description? Was not Carolina among the rest? All the Northern and all the Eastern States were applying continually for this sort of aid.

He could not believe that there existed in the House any jealousy towards the improvement and advance of the Western country. He had discovered no such spirit. This he did know, perfectly, that, in the West, no such jealousy existed towards their eastern brethren. The people of that part of the Union were animated with one kind and generous feeling toward all their fellow-citizens. But a young gentleman from North Carolina had assured the House that, if this system of internal improvement was to proceed, the Union must be dashed into fragments. Such was the gentleman's opinion, and such his prediction. Just about as reasonable would it be to affirm that putting hoops round a barrel would separate the staves. The more facilities were given to the mutual intercourse of the citizens of different States and opposite extremities of the Union, the more firmly would they be bound together by common interest and feeling. He trusted these surveys would proceed as they had hitherto; not for the exclusive benefit of the West, but for the good of all alike. He trusted to hear no more appeals to prejudice, or to sectional feelings; but that the measure would be placed on common ground, and receive the common support.

Mr. EVANS, of Maine, concurred in the views taken by the gentlemen from Kentucky and Vermont [Mr. MARSHALL and Mr. H. EVERETT] yesterday, that, if this amendment was refused, the bill ought not to pass. Under that impression he should, in that case, move to lay the bill on the table; and, if that motion failed, he should vote against the bill, and against all other appropriations of similar character. He considered the rejection of this item as a declaration that henceforth all internal improvements by the General Government were to cease, and that no appropriations were to be made in future, save for works now begun. If there were no new surveys, there would, of course, be no new works. He had voted for the other items of the bill, but he had always voted against every project which had not been preceded by a survey. But now it seemed no further surveys were to be made; and so all money hereafter appropriated for works of internal improvement must be confined to works already in progress. But was the House satisfied that no other parts of our country needed improvement than those which had already been examined? Surely, no gentleman would maintain such a position. Yet there were to be no more plans, no more estimates, no more examinations. If such was the decision of Congress, Mr. E. must of course acquiesce in it; and in that case he should be for carrying the decision into immediate effect by stopping where they were. He would not vote a dollar if it was to be given exclusively where works had already commenced. What could be more partial? To give all to a few favored spots, and shut their eyes against the wants and wishes of every other part of the country. The gentleman from North Carolina [Mr. BYNUM] was of opinion that these surveys only misled the Government. The gentleman considered the surveyors and engineers as interested hirelings, who, against their better judgments, would make favorable reports for the sake of bread. Mr. E. had not been accustomed to view that body of officers in such a light. They were a corps of scientific men, of honorable and unspotted character, and did not merit any such imputation. Could the gentleman put his finger upon any fact to justify the charge? Could he produce one instance in which they had returned false statements and false estimates? Any such case was totally unknown to Mr. E.; and, till it was produced, he must consider the assertion as gratuitous and unfounded. If these surveys were to be arrested, in what would these officers occupy their time? They must remain idle or be disbanded.

The gentleman, however, had a yet more formidable subject of apprehension. If this item of 29,000 dollars should be inserted in the bill, the country must again be subjected to the tariff. Now, Mr. E. had supposed that that question was settled by compromise. But the gentleman insisted that, if this system of surveying the country should be persevered in, the Union would be dissolved. Mr. E. had heard the same thing said ever since he had been in Congress. According to the gentleman, bayonets were to be drawn. Now, the people of his part of the country were not accustomed to make threats, neither were they very apt to be intimidated by them. The Government, he trusted, would go on and do its duty; and, if it met with bayonets, it would know what to do. The member had told the House that a large majority of the people of the United States were opposed to the system. On what evidence did this assertion rest? Was the proof to be found in the fact that, for the last twenty years, a majority had been found in both Houses of Congress in favor of the system? Such was the fact.

And was that the proof on which the gentleman ventured such an assertion? Or was it because, after the whole subject had been long, and fully, and ably discussed before the people, they had sent large majorities to represent them in Congress who were decided friends of the system? Was this the proof? Mr. E. had not understood that the present administration was opposed to the system, but only to its abuse. The President had vetoed only on the ground of certain objects being of a local character. But the objects in this bill were of a national character—certainly these surveys were. As to the constitutional question, one of the first speeches Mr. E. had ever heard on that subject in Congress was by a gentleman from Virginia, who declared that it was then too late to discuss the abstract question, because it had been settled by the public will. He had admitted that the people, by acquiescing in the system for such a course of years, had given it their sanction as constitutional. Mr. E. was himself of that opinion. The question was settled. It had long been settled. The President himself had given the sanction of his signature to this very item in former bills. If ever a question ought to be considered as at rest, this question should be so considered.

Mr. MANN, expressing his concurrence in the views expressed, and being of opinion that the session was too far advanced to admit of a protraction of the present debate, moved the previous question.

The motion was not seconded: Ayes 50, noes 58. But no quorum having voted,

Mr. JONES moved for a call of the House; which being carried, the House was called.

The call was soon after suspended, on notion of Mr. VANCE: Ayes 76, noes 56.

The question was then again put on seconding the call for the previous question, and decided in the negative: Ayes 62, noes 66. So the House refused to second the call.

The question still being on the adoption of Mr. MERCER's amendment—

The yeas and nays were ordered.

Mr. MERCER rose to address the House; and, after some words in reply to the remarks of Mr. H. EVERETT, said that he would make one more effort to obtain a deliberate decision of the question now before the House—a question as important as any which it could decide. The gentleman from South Carolina [Mr. FELDER] had intimated that there was yet behind another bill for roads and canals, from the committee to which Mr. M. belonged. It was true that that committee had been required, by probably more than a hundred resolutions of the House, to report in respect to the expediency of making improvements in different parts of the country; some consisting of roads, others of canals, and others of harbors. They had in consequence reported a bill to provide money for some of these objects; but it was very doubtful whether the House would, this session, be able to arrive at its consideration. In that bill, however, instead of adopting the usual course of providing a specific sum for each improvement, the committee had only provided for an appropriation of 20,000 dollars to cover the whole, leaving the order in which the several works should take precedence to be decided by the President.

With regard to the present item for surveys, gentlemen ought to remember that 17,000 dollars of the amount proposed was for arrears, to meet the expense of work already done. The surveys had been made, and the officers who had conducted them remained still without their pay. As to the rest, he was absolved from any necessity of reply, because he had not yet heard a single argument in opposition to them. He had heard, indeed, much said about the Cumberland road; but was this item for a survey of the Cumberland road? Was the act of 1824 passed for that object? Or was the Cumberland road then first commenced? So far from it, the design of that road had originated in Mr. Jefferson's time, and the first application for carrying it into effect was made by a distinguished son of Virginia. Much, too, had been urged against the system of internal improvements by the General Government; but that system had no legitimate connexion with this appropriation. This was not an appropriation to carry on works of internal improvement by the General Government; it was for surveys merely. All the arguments, therefore, from the constitution, in opposition to the power of the Government to conduct such works, was aside from the question before the House. Whether these surveys were allowed or refused, the General Government might, if disposed, still carry on works of internal improvement as vigorously as ever. It might adopt surveys made by State authority. Did the Congress survey the Dismal Swamp canal? Did the General Government make the surveys for the Portland canal? Was the Chesapeake and Delaware canal surveyed by order of the United States?—it had been surveyed 30 years ago by a British engineer. This was a sufficient answer to the argument of the gentleman from North Carolina, [Mr. BYNUM.] That gentleman had told the House that New York, Pennsylvania, and Virginia, had made their own internal improvements: every useful project had been accomplished by the States. Ay, indeed! Was the breakwater in Delaware bay no work of internal improvement? By what State was that made? Was the Dismal Swamp canal no work of internal improvement? and was it by State subscription that its stock was taken up? Was it not a Virginia and a North Carolina improvement? and would it have been made without the aid of the General Government? Was not the Delaware and Chesapeake canal, in fact, a Pennsylvania improvement? Almost all the stock was owned in Philadelphia. Had New York no interest in this matter? Had nothing been done for Buffalo or the lake harbors?

Here Mr. M. quoted many more cases, which followed each other so fast that no reporter could catch the particulars. He combated the notion of its being constitutional to improve rivers, only because the Government collected its revenue at their mouths—and asked whether, if the Government were sustained not by revenues on commerce but by taxes on lands, the case as to constitutionality would be in the least altered? Many objects of internal improvement were beyond the reach of joint stock companies, and unless accomplished by the aid of Government must remain undone for ever. As to this very case of the Cumberland road; for what had that great highway been constructed? It was to bring into market the public lands at the West, by rendering them accessible. And he now said, in defiance of all contradiction, that the road had not cost more than it would take to construct it now. One mile of that road had cost $30,000; nor could it be made for less—the road, in that spot, crossing the same creek a great number of times. Yet they were to be called knaves and robbers for asking for no more money than works of the greatest public utility indispensably required. Mr. M. said he could not, for want of time, go through with the subject. In their zeal against these surveys, gentlemen seemed to have forgotten that the examination of projected plans of improvement often proved them to be impracticable, and thus saved the expense which might otherwise have been incurred by commencing them. He referred to the case of the road over the St. Francis, in Arkansas, and to the result of the late survey by Dr. Howard, from which it had been ascertained that the construction of a road, over that ground, could not be accomplished for less than $245,000. Was this information worth nothing? Had the Government got nothing for its money, because no road was made? The appropriation for surveys was nothing but the purchase of valuable information, which could be obtained in

no other way. Among other topics wholly irrelevant to the matter in hand, some gentlemen had lugged into the debate the subject of the Chesapeake and Ohio canal. As to that unfortunate canal, the gentleman from South Carolina [Mr. FELDER] had told the House that, in a late excursion upon its waters, he had met few if any boats bearing produce. Now, Mr. M. had had the pleasure of accompanying the honorable gentleman in that excursion, and, after observing the very attractive objects nearer at hand, which seemed to occupy the vision and the thoughts of his honorable friend, he was not much surprised that he had no eyes for what was passing elsewhere. Mr. M., though himself somewhat in danger from the same cause, had nevertheless observed a large number of such boats on their way, both in going and returning; nor was it any wonder that but few should have been observed. If the gentleman had noticed the large pile of flour barrels stacked up at Harper's Ferry, waiting to come down the canal, he might have seen some explanation of the fact.

[Mr. FELDER said these barrels of flour were, as he understood, destined not to the canal but to the railroad.]

Mr. MERCER resumed. Admitting that to have been their destination, they could not certainly jump to the railroad. The railroad terminated at the Point of Rocks; the flour lay at Harper's Ferry; how could it get to the railroad without first passing down the canal? There were as many as 1,000 barrels waiting to pass down. Mr. M. then referred to the contemplated improvements in the valley of the Shenandoah, and went with his usual readiness into details about the height of dams, the quantity of water, &c.

He said that he regretted, as much as any one could do, the sectional, allusions with which the debate had so much abounded. Mr. M. said he was scarcely grown up when he devoted his talents (of which he spoke very modestly) to the cause of internal improvements in his own State; and it had been 25 years since he first filled a seat in her Legislature. Upon that floor he had witnessed a unanimous vote as to the power of the General Government to carry on works of this description. He had heard the most distinguished son of Carolina ably advocating the propriety and constitutionality of its doing so. As to the tariff, which had also been forced into the contest, Mr. M. had never given what was called a tariff vote in his life. He never had voted for laying a new protecting duty in any case. He had, nevertheless, been the steady advocate of internal improvements: so had a very distinguished gentleman from South Carolina in this House [Mr. McDUFFIE] once been also. In fact, the system was one of southern origin. Mr. M. had listened to the most extraordinary array of heterogeneous arguments against these surveys he had ever witnessed, and all founded in prejudice, and addressed to prejudice in others.

Among other things, the House had been reminded about the Buffalo road and the road to New Orleans having been contained in the same bill, and on this had been founded a charge of log-rolling. What was the exact meaning or true origin of that phrase was better known to western members—for he believed it was a western phrase. But, in the usage of that House, it was held to mean an improper combination of different interests to uphold each other by some mutual sacrifice of principle. He pleaded guilty to no such charge.

He had heard, too, that the engineers were bribed to make favorable reports, by the hope that they should, in consequence, get employment. Now, the most costly survey in this country had been that made for the Chesapeake and Ohio canal, which it had taken three years to finish, and yet not one of the corps of United States engineers who had been engaged in it had since been employed in the superintendence of any great work. Not a solitary instance could be produced in support of the injurious assertion which had been made, in regard to that very respectable and useful body of able and scientific gentlemen. Mr. M. next adverted to the fallacy of the idea, that such works as the Government had engaged in would otherwise have been carried on by private companies; and, in illustration, mentioned the profitless stock of most of the turnpike roads in England. To such a length had this gone, that some companies were petitioning Parliament to offer rewards to stimulate the lagging enterprise of the public. He asked whether any private company would ever think of undertaking such a road, for example, as that from Detroit to Chicago? He insisted that there was not a member who might not consistently vote for the present item of the bill, and yet vote against every project of internal improvement to be carried on by the General Government. Surveys bound the Government to nothing. Congress could decline accomplishing the work after it was surveyed; and the maps of surveys already made would show how the Government had profited by experience. It was wonderful to him to witness how gentlemen could substitute chimeras in the place of sober fact, to see the effort so strenously made to overwhelm both fact and argument under a mass of prejudices. Mr. M. said he had always voted in favor of the Military Academy at West Point; yet he had always thought that the services of more than half the cadets there were wholly useless to the country. If the object of that institution were confined to the furnishing of a body of well-trained, competent, and able surveyors, it would do more to the real advancement of the public good than all that which now costs the Government hundreds of thousands of dollars every year. Other nations understood and appreciated the value of correct surveys of their territories. England had been engaged for the last twenty-five years upon a general map of Great Britain, and he believed it was not yet completed. The same thing might be said of France, and of all the most cultivated and best-informed nations of Europe. Yet we, who were born but yesterday, and had such a vast extent of soil, thought we could dispense with national surveys altogether.

Mr. BEATY made a brief but strong appeal to his western friends to remember Cumberland river.

The question, which had long and loudly been demanded, was at length taken, and decided by yeas and nays, as follows: Yeas 89, nays 97.

So the amendment proposed by Mr. MERCER, proposing to appropriate $29,000 for the continuance of surveys, was rejected. [It subsequently passed, however.]

Mr. MARSHALL said that his State had no interest whatever in the passage of this bill, save on the general principle that she was concerned in upholding the doctrine of internal improvement by the General Government. The item for surveys was, however, the only item in the bill which distinctly connected it with that doctrine. Deprived of this, which was the only appropriation of a general kind, the residue of the bill consisted wholly of local provisions, and rendered it a partial and a local bill. The present was the third Congress at which Mr. M. had been honored with a seat upon that floor; and, in all that time, he had constantly voted for appropriations of the kind now in the bill, not that they were for his State, for Kentucky got none of them, but chiefly on the ground of keeping alive the system. But he was not willing that gentlemen in that House, who had particular measures to carry, should avail themselves of his vote, and the votes of others similarly situated, to effect their purpose; and, when that was secured, should then turn about and vote down the only one feature of a general character which the bill contained. Here, then, he should stop. He would go no farther; and he appealed to other gentlemen from the Western States to say how far they would permit themselves thus to be played with. If the system

was to stop, let it stop now. He moved to lay the bill upon the table, and demanded the yeas and nays. They were ordered accordingly.

Mr. FILLMORE moved a call of the House; but it was negatived.

The yeas and nays were then taken, and resulted as follows: Yeas 104, nays 83.

So the harbor bill was laid upon the table.

The next bill in order was the

FORTIFICATION BILL.

Mr. WHITE, of New York, moved that it be postponed.

Mr. POLK was willing that it should be laid aside for the present.

Mr. BEARDSLEY moved to lay the bill upon the table, and demanded the yeas and nays on the question; which were ordered.

Mr. JARVIS moved an adjournment; but it was lost.

The question was then put on laying the bill upon the table, and decided as follows: Yeas 77, nays 102.

So the House refused to lay the fortification bill upon the table.

The House then took up that bill.

Mr. POLK moved to amend the bill by reducing the sum for Fort Independence, in Boston harbor, from $34,758, as originally reported, to $17,594. He did not go into a detailed statement of the grounds of this reduction, as the subject had been explained and discussed when the bill was in committee.

The amendment was agreed to.

Mr. McVEAN moved to amend the bill by striking out the item as amended; but consented to withdraw the motion.

Mr. POLK next moved to amend the bill by striking out the item of $100,000 for the fort on George's island, in Boston outer harbor.

Mr. GORHAM, of Massachusetts, opposed the amendment. He said that he hoped the House would hear from the honorable chairman of the Committee of Ways and Means some reason for striking out this appropriation. If the system of fortifying the most important points upon our seaboard was a proper system, and if the plan for effecting it which had been agreed upon by the Government was a wise and judicious plan, then he should suppose that every man who admitted it to be so must, as of course, vote against the motion now made. He did not know that, without a map, it would be possible to explain the localities of the harbor, and the situation of the fort referred to, so as to make gentlemen clearly comprehend the case. The harbor of Boston was divided into two parts, one of which, nearest to the ocean, was called the "outer harbor," and the other portion of it, more in the vicinity of the city, was called the "inner harbor." George's island lay at the point by which vessels must pass in order to get from the outer to the inner harbor. The fort was, therefore, obviously necessary to the protection of whatever the inner harbor contained; and in that harbor was situated, beside all the shipping, a naval depot of the utmost consequence to the Government.

It was one of the most important points of defence upon the whole seaboard. Why was it not to be defended? The Government, in prosecuting its system of fortification, had begun at the Mississippi, and proceeded northwardly, along the coast, expending, in its progress, seven or eight millions of dollars upon different works, until it had got as far as Rhode Island. Beyond that point nothing had yet been done. Yet, in the distribution of the several contemplated fortresses into classes, according to their relative importance and necessity, this fort in Boston harbor had been included in the first class; and the Government had very properly resolved that the works of that class should first be undertaken and completed, before those of subordinate importance should be commenced. Contrary, however, to this arrangement, works of secondary consequence had been undertaken, and many of them completed, and yet these forts at Boston, which were marked as belonging to class No. 1, had not yet been attended to. He would be glad to understand on what principle so important and so needful a work was to be omitted or postponed? He had heard it said that it was because this fort on George's island was a new work. This, however, was not the fact. It was not a new work. The subject of commencing this fort had long since been submitted to the Committee on Military Affairs, who had reported in its favor. An appropriation had accordingly been made for commencing it, of a small sum, indeed, but sufficient to put the case out of the reason which had been alleged. But why had no appropriation been made at an earlier period? for this fortification had been recommended in the plan of General Bernard, as one of the first rank. Simply, because the representatives of Massachusetts had not importunately pressed the claims of their State and of its commercial capital in this matter. It was not the size of the fort that could have been the objection, for works as large and larger had been erected at the South. Yet what was the situation in which the town of Boston, with all the invaluable marine and naval interests concentrated therein, was now placed? Any military man, by a single glance, must perceive that the navy yard itself, with all it contained, might be taken by an enemy by a *coup de main*. And the navy yard, be it remembered, was within a quarter of a mile of the city. The British had a naval station at Halifax; and, in case of a rupture, their cruisers might be ordered round and might pass up the harbor before the least notice of their approach could be had, and, before any effectual resistance could be offered, might lay the navy yard in ruins. There was not a point on the whole coast, from Portland to New Orleans, which so invited the enterprise of an enemy. They might approach within four and a half miles of the town itself, before a single gun could reach them. Gentlemen smiled at the idea of providing against such an attack now, in a time of profound peace, when there was no speck of war on the horizon. But let him tell gentlemen that when war was approaching there would remain no time to erect such a fort as the defence of Boston harbor required. If it was to be erected at all, it ought to be going on now, while time and opportunity was afforded to proceed advantageously with the work. Mr. G. insisted farther on the exposed situation of the harbor, and said he could convince any man, in the least conversant with naval affairs, that the depot in that harbor, which was one of the most important and valuable in possession of the Government, might be captured and laid in ruins in a single night.

Mr. POLK rejoined. He said that he had never controverted the propriety of, at some time, erecting a fort upon George's island. Such a work might be not only proper but necessary, nay, indispensable. He knew that it was included among the fortifications of the first class, in the general plan adopted in 1821. That plan embraced works of various grades, a number of which had been commenced, some were finished, and others in progress. When this bill had been brought into the House, he had been asked whether it contained appropriations for any new works; and he had replied in the negative. But he had not, at that time, known how very small a sum had been expended upon the fort now in question. He felt it his duty to curtail the national expenditure all he could for the present year. He believed that, though 25,000 dollars had been appropriated for this fort, there had not, as yet, in the whole, been more than fifteen hundred dollars expended upon it. He had a letter from the Secretary of War, addressed, not to himself, but to another member of the House, a copy of which had been furnish-

ed to him, and which he would now read to the House in vindication of his course in moving to omit, for the present, any appropriation for this fortress.

[Mr. P. here read the letter, which stated, in substance, that if any reduction was to be made in the sum estimated for by the Department, it might best be done by postponing the appropriation for this work, and reducing certain others mentioned.]

From this letter he had been induced to conclude that it would be proper to suspend appropriating for the fort on George's island till another session.

Mr. GORHAM said he could not see on what principle the gentleman came to such a conclusion: It certainly could not have been from this letter; a letter addressed not to him; a private, unofficial communication to some member of the House; and a letter which contained not one word to show that the Department thought this work ought to be postponed at all. The harbor of Boston, one of the most important in the country, and one of the most assailable, was to be left wholly undefended. He protested against any such conclusion.

Mr. EVERETT, of Massachusetts, went into a detailed statement of what had been appropriated for this fort, and the items of expenditure which had thus far taken place, down to the time when the session commenced. But he reminded Mr. POLK that the House had been seven months in session, and by that time, very possibly, the whole of the former appropriation had been expended. The argument, therefore, against including this fort in the bill, because almost nothing had yet been expended upon it, came to nothing. Mr. E. went on to explain the present state of the defences of the harbor. They consisted of the old works on Castle island, which were in a state of entire dilapidation. The fort was totally ruinous, insomuch that not a gun could be brought to bear upon an enemy, and fought, should an attack be made. The Department had sent to the committee a plan for the repairs of the work, and had stated them to be essentially necessary. And, if the gentleman meant to insist upon his plan of reducing the appropriation to 17,000 dollars, he might, as to all practical benefit, just as well throw that sum into the sea. Mr. E. appealed to the House to say, whether the present state of things ought to continue? Was it wise? Was it proper? Was it considerate? Was the treasury so utterly bankrupt that, from mere want of money, one of the principal cities of the Union must be left without forts to defend it? Would any gentleman, would the gentleman at the head of the Committee of Ways and Means, say, in his place, that our finances were at so very low an ebb as this? He trusted the House would not, by its decision, say so. Did gentlemen consider that the naval depot in Boston harbor contained, at this time, one ship of the line, and four or five ships of war of a lower grade, beside all the naval stores, and an immense amount of public property in marine buildings? That in that harbor lay a large town, with all the shipping pertaining to it, besides several other towns of smaller dimensions; and that all this treasure lay absolutely defenceless, without a single gun to repel the attack of the feeblest enemy? It was true that he had no expectation of a speedy war. But what then? Was that a reason the nation was to be unprepared for it? Had not a very recent occurrence of a very painful nature made it apparent, in a period of profound peace, that our ships of war traversed the ocean with their guns shotted. Unless the gentleman could give some better reason than the House had yet heard, he trusted the motion would not prevail. As to the condition of the treasury, had not the House heard, from a very high quarter, that the state of our finances was as flourishing at this moment as they ever had been? Why then must Boston harbor be passed by, when such large amounts were given for the security of points not so important, and not so exposed?

Mr. GRENNELL said that, after the clear and able exposition given by his colleagues, it might be considered unnecessary and superfluous for him to add any thing; nor should he trouble the House long. It seemed to be admitted that but a small sum had yet been applied to this fort, though a considerable amount had been formerly appropriated for it. And, judging of the course of the debate, it would appear as if the present appropriation was considered in the light of a boon to a particular city. It was not so. The defence of an important harbor was not to be treated or considered as a favor granted for the benefit of one city or one section of country; and he could tell gentlemen that the people of that portion of the Union where this fort was to be located were not, perhaps, in the habit of depending so much on the disbursements of the Government as those of some other sections of the country. The fort proposed to be stricken from the bill was one the great seaboard defences of the Union. The board of engineers, when arranging their celebrated system for the defence of the country, had decided that the protection of Boston harbor demanded a fortification of the first class. No gentleman, he presumed, was disposed to question the competency of that board. It would be now doubted, if at all, for the first time. It was called together at the termination of the last war, when the recent experience of the country, in some cases so disastrous, had taught us by experience the strong and the weak points of our country. It was composed of men of the highest character and most extensive experience, and its great design was to devise and to present to the Government a complete system of external defences, for the whole seacoast of the Union. The board made a most able report, in which the different defensive works were arrayed in classes, according to their size and importance. Was not such a report entitled to great consideration? Who could doubt that one of the first duties of the Government was the duty of protecting its citizens in the secure possession and enjoyment of their property? Yet his colleagues had shown that, in the harbor of Boston, great and important interests were left in a state of complete exposure, without effective defence of any kind. Did gentlemen consider what these interests were? Did they remember that in that harbor was situated one of the greatest depots of naval armaments and stores which the country owned? That ships of war were constantly repairing there? That ordnance were collecting? That munitions of marine warfare were amassing? Were these interests which called for no regard from a wise and considerate Government? But there was one other object within that harbor, the mere mention of which must be sufficient to convince every one of the impropriety of leaving it unprotected. He referred to the dry docks. One of these, at Charlestown, had cost the Government, for its mere construction, more than a million of dollars. How important an addition was this to the value of all the other public property there? And how long would it take an enemy to destroy the whole? Not more than four hours. Four hours would be sufficient to reduce the whole depot to ashes. He would ask of southern gentlemen, who were acquainted with the naval depot at Gosport, how long it would require to destroy that valuable establishment? Would it require a longer time than he had mentioned? And would they consent to leave that defenceless? Let the vast work at Old Point and another at the Rip Raps answer. Here, then, was economy! For the sake of putting off for a year or two the expense of building a fort, to have such an amount of public property at the mercy of a foe. But we were to have no war. Oh no! It was ridiculous to talk about it! Other nations, all other nations, had wars; but we never should! Or, if we did go to war, this harbor would escape. Was not this being (if the honorable chairman would excuse the

phrase) penny wise and pound foolish? If ever a war should happen, where would the theatre of that war be? Doubtless, it would be on the ocean. And when a naval armament was assailing this country, where would be its point of attack? Would it not be at such a spot as might be most easily taken, and, when taken, would occasion us the most loss and injury, and do the enemy most good? If our naval armaments were exposed, that would be the point which would invite the blow. Such a point must Boston harbor be, unless the means were granted to render it secure. Arms and munitions of war might, indeed, be collected to one point even in time of war; but heavy forts for seaboard defence were works which must be done in time of peace. Did gentlemen forget that the British ships lay off Boston, during the last war, in entire security, in the very face of a rich city and a powerful Commonwealth? Had they forgotten the melancholy rencontre between the Chesapeake and Shannon; when the power of the enemy braved us to our face, and their taunting challenge drew forth our lamented hero to his destruction? Was it intended to suffer the works on Castle island to perish; and then to refuse to erect a fort on George's island? Was it the system of gentlemen to leave Boston defenceless?

Mr. G. addressed this query to the gentleman from Tennessee, the chairman of the Committee of Ways and Means: was that gentleman, coming from the prairies of the West, and who possibly never saw the seaboard in his life, to lead that House at his pleasure in matters of naval defence? Was his judgment to be received and submitted to as overpowering and infallible on all subjects? But the gentleman produced a letter; yes, a letter from the Secretary of War, in which that officer expressed himself willing to dispense with this appropriation. But, was that a letter officially addressed to the House? No. Or to one of its committees? No. Or to the gentleman from Tennessee himself? No. It was a private letter to a member of the House. And what, he would take the liberty of inquiring, had induced the honorable Secretary to write that letter? Had he done it of his own free motion; or was it in consequence of a previous letter to him, which letter was not produced? It was obviously a reply to some letter to him, suggesting that a reduction must be made somewhere in the annual estimate. A letter so written, and under such circumstances, brought forward to that House, had, he must confess, no weight at all with him, and he believed would have but little with the House. Was the protection of a great naval depot to be postponed on such an authority; when the opinion of all military men agreed on the necessity of the work proposed; and when the state of the treasury had been officially declared to be prosperous? He could not believe that any gentleman, on due reflection, would maintain such an opinion. And he really wished the chairman of the committee, instead of giving out to the House his own personal opinion, would go and ask the President, who had personally inspected the situation of this harbor during the last summer, to say whether, in his opinion, this was not an important, and, at the same time, a very exposed point upon our Atlantic frontier?

Mr. W. R. DAVIS supported the motion to strike out the clause under discussion. He could see no necessity for these immense appropriations for fortifying the country. He would venture to say that, if some intelligent foreigner, especially if he came from England, were then present, he would suppose, from the language and arguments of gentlemen, that they were about to rush at once into a war. Millions at a time were they devoting to this object. For what purpose was such folly on the part of a country distant three thousand miles from any that could be its enemies!--for we hardly consider the Canadas as within the possibility of becoming such--a country peaceful in the spirit of its Government, and chiefly agricultural in its pursuits. Why, then, he repeated the question, these enormous sums for fortifications?

Mr. CROCKETT said he had at all times supported internal improvements, and would now like to do so. He had an amendment to offer to the harbor bill, for a small benefit for his district, which was to remove the obstructions out of the rivers Hatche, Forked Deer, and Obion; but he unfortunately went home to his dinner, and, while he was absent, the bill was laid on the table. I now believe, said Mr. C., we ought to lay this bill on the table, too, and all other appropriation bills. Sir, it is useless to pass appropriation bills. A majority of this House has determined, by their votes, that Andrew Jackson shall be the Government. You say his will shall be the law of the land. What have we seen, sir? We have seen him seize the treasury of this country, and remove it from where the law had placed it; and I now ask any gentleman of this House to satisfy me why the same law that will authorize him to take the money from where the law had placed it, will not bear him out in also distributing it where he pleases? I don't mean that he took hold of the money with his own hands, but he made his tools do it, which is the same thing. Sir, of what use are your laws, while he walks over your laws, and your constitution, too, with impunity? Sir, I do not consider it good sense to be sitting here passing laws for Andrew Jackson to laugh at; it is not even good nonsense. Sir, what does he care for your laws or the constitution? He is the Government, and his will is the law of the land. Sir, he has no Secretary, either of State or the Treasury, nor has he had any for better than one year, according to the constitution. He has got people about him acting as such, but he has never asked the Senate to confirm them, as the constitution requires him to do; and out of those that the President has got about him, I have never seen but one honest countenance since I have been here, and he has just resigned. I suppose he cannot stand them any longer. And I am told that the other, the Secretary of the Treasury, is packing up to remove. Sir, we have no Government but Andrew Jackson, without Secretaries; and, sir, he is surrounded by a set of imps of famine, that are as hungry as the flies that we have read of in Æsop's Fables, that came after the fox and sucked his blood. Sir, they are a hungry swarm, and will lick up every dollar of the public money.

Sir, we have heard that this country was to be blessed with the Jackson money--the hard chink--and, to our surprise, what have we seen from the gentleman from Baltimore? [Mr. McKIM.] He, as the administration leader in this House, has brought forward a measure to give the country a blessed currency of fifteen millions of glorification money. I suppose he has caught that from New York. Sir, I still live with a hope of seeing better times. Let us all go home, and let the people live one year on glory, and it will bring them to their senses; and they will send us back here and teach us to make the gentleman in the white house take down his flag. Sir, the people will let him know that he is not the Government. I hope to live to see better times.

Mr. DUNLAP said he had not intended to address the House on the subject now under consideration, and should have contented himself with giving a silent vote, had it not been for the remarks of his colleague, [Mr. CROCKETT.] We represent districts (said Mr. D.) the same in interest and feeling. My colleague has taken occasion to make insinuations against the Executive of this nation, the President of his own State, and the choice of his own district.

I, as one of the representatives of Tennessee, would feel that I was recreant to my duty if I did not repel them. He charges the President with having taken the money of the people, and having it at his own disposal, and asserting his own will for the law. Mr. Speaker, I

repel the insinuation. He has never taken one dollar, nor can he, but by the vote of this House and the coordinate branch of the Legislature. He has never assumed any power or control over the public money that has not been assumed and exercised by every other President, for which he is now denounced and called tyrant and usurper. Sir, the power that the present Executive has assumed was never denied to any other President, or by any person, until the present session of Congress. The persons who now deny the President the power he has exercised are ready to condemn him for any and every act of his administration. I had considered, Mr. Speaker, when I was elected a member of this House, it was my duty to legislate for the whole Union, and to vote for such measures, no difference in what part of the Union they may have originated, or by whom they were advocated, as I might believe were right, and to oppose all such as in my opinion were wrong; but, sir, I find gentlemen here acting from different views. My colleague speaks much about the expenditures of this administration, and at the same time tells you he is in favor of internal improvements, and has voted for all the bills before this House for such purposes, and also for the harbor bill that has been laid on your table, and that he is in favor of this bill; but, as the other bill has been laid on the table, this had as well keep it company until they could find where the public money is. I know, Mr. Speaker, that my colleague and myself differ in opinion upon the subject of internal improvement. He entertains the opinion that this Government has the power to appropriate money for internal improvement, and, in accordance with his opinion, has voted to appropriate millions of dollars this session to such purposes. I entertain a different opinion, and have voted against every one of the propositions he has voted for. Mr. Speaker, I believe this is a Government of limited powers. The only power it has was given to it by the thirteen original sovereign States. They delegated a portion of their powers to the Federal Government, and that not delegated was reserved by them. Now, sir, in reading the constitution, I find no power given to the Federal Government to appropriate money for internal improvement, and whenever it is done it is a usurpation of power on the part of the Legislature. We hear much about executive usurpation; and who are they that thus complain? The very persons who are in another branch of the Government exercising powers never delegated to them--passing laws appropriating millions of dollars for internal improvement, and laying a high protective tariff to raise the money.

If this system of internal improvement is persevered in and carried on, we of the South will again be burdened with the odious tariff; those who are in favor of one of these measures must be for the other. Who is it that votes for these enormous sums of money to be expended? The very persons who are daily abusing the Executive for the profligacy of his administration, when at the same time they know that he cannot spend one dollar without it is first appropriated by Congress, and then as he is directed by the act making the appropriation. Gentlemen surely have but a poor opinion of the intelligence of the American people, if they expect to deceive them by such statements. They are more generous and magnanimous than to condemn any person without first examining the charges and the proof.

The Executive has proved to the American people, by the whole tenor of his life, that he is one of the purest patriots of this or any other age; and that there exists not in this nation one man to whom the title of tyrant and usurper would not sooner apply than to himself. Little could he have expected that one of the representatives from his own State would have called him by such epithets; and one, too, representing a district that gave him almost an entire vote for the presidency. There were not, Mr. Speaker, one thousand voters in my colleague's and my own district, both together, that voted against the present Chief Magistrate at the last presidential election; and how he can reconcile himself thus to abuse the President of the choice of his constituents I cannot say; it will be for him and them to settle that matter.

I am, Mr. Speaker, in favor of the motion of my colleague [Mr. Polk] to strike out of this bill one hundred thousand dollars for the erection of a fort at George's island. Mr. Speaker, if any gentleman in this House will take upon himself the trouble to examine the original plan and estimates made by the Engineer department, about the different forts and fortifications then considered necessary for the general defence of this nation; and then examine the number finished, the cost, and how much more they cost than the original estimate, he will be astonished at the enormous sums of money they have cost; and if this system is to be continued, how many millions will it yet cost this Government to complete the works originally contemplated? Sir, there are now more forts finished than will be armed in the next thirty years. Why then build more? Let us first arm those already finished. I would call the attention of the House to the number of men necessary to take care of those forts in time of peace. There will not be soldiers enough in your army to man them. You will have to increase your army for no other purpose than to take care of these forts. Here will be an additional expense on the Government. The estimate for the present fort is near half a million of dollars. We are only asked to give one hundred thousand dollars this year; but every year hereafter we will be asked for a like or greater sum, until it is finished; and if the estimates fall as far below as some others have done, we may have to appropriate a million of dollars to the erection of this fort. After the passage of the act of the 30th of April, 1824, appropriating thirty thousand dollars to be disposed of by the President, to have such roads and canals surveyed as he might believe would be of national importance, it was found necessary to increase the engineer corps, to enable the President to have all the different roads, rivers, and canals surveyed that might be deemed of national importance. Mr. Speaker, we had engineers sufficient to answer all our purposes for the army during the late war; and in profound peace we see this corps increased, and for no other purpose but to devise ways and means to spend the public money, for the unlawful and unconstitutional purposes here alluded to. I am for stopping this system; and, when that is done, the necessity for this increased number of engineers will cease; and they can be reduced to the number necessary for the army, and thus save this additional expense to the community.

I know, sir, it is the policy of some gentlemen to continue those enormous expenses of the Government, and thus keep up the necessity of continuing a high tariff. I act from a different principle. I wish the expenses of the Government curtailed to its actual wants; and let us again return to the original republican simplicity of our Government, as formerly administered by Jefferson, and as it is now practised upon by Jackson.

Mr. CROCKETT rejoined, and said he had no idea of warming his colleague; but he wished it distinctly understood that he took nothing back that he had said, but would reassert every thing, and go further. He therefore now said we had no Government at all, and God only knows what is to become of the country in these days of miserable misrule.

Mr. SELDEN was sorry to interfere in the present debate, nor should he have done so had it not been distinctly intimated by the chairman of the Committee of Ways and Means that this motion to strike out the fort in Bos-

ton harbor was only the forerunner of a like attempt to strike out a work in New York, and others on different parts of the coast. He should therefore take the liberty of briefly adverting to the suggestions of the honorable chairman in support of his motion. The gentleman had alluded to the general plan of fortification adopted under a former administration, and had stated, if he understood him rightly, that it was intended to follow out that plan according to the views of the head of the War Department; and, accordingly, the work recommended for George's island had been commenced. Mr. S. thought it to the credit of any statesman that he had the boldness to submit so noble and extensive a system of defence, extending from one end of the Union to the other. It was creditable to the boldness of any administration to bring such a measure forward; and the time would come when it would prove one of the brightest laurels on the brow of any man to have originated such a design. The friends of the system, however, were now reproached for supporting it and endeavoring to carry it into effect. One work, in particular, had been made the subject of much unmerited reflection; he alluded to the fortification on Rouse's point, at the head of Lake Champlain. The spot where that work had been erected was so near to the boundary line between the United States and Canada, that a mere variation of the needle had brought it actually within the British territory, and it had thus become lost to the United States. But this was not the fault of the Secretary of War. It was a result which, as none could have anticipated, so no man could think of guarding against it. The fort had been intended to guard an important point upon our Northern frontier; but, owing to the line not having been run with astronomical exactness, it turned out to be on one side of the true line, when it was supposed to be on the other. Was the Secretary to be reproached for this? But Mr. S. wished to call the attention of the House to the system of defence which had been proposed for the State of New York. Before doing this, however, he must be permitted to notice the course which had, on the present occasion, been pursued by the chairman of the Committee of Ways and Means. He admitted that that gentleman was not bound to sustain whatever was reported by order of the committee to which he belonged; but, certainly, when his situation made him the guardian of a bill reported by himself, he ought not, while sustaining that situation, to turn about and murder his own bill piecemeal. Had he committed the care of the bill to another, he might then with a better grace have come forward in opposition to what it contained; but after bringing in the bill himself, as its parent and guardian, then to attempt to destroy and break it down was certainly not a very consistent or honorable course. Mr. S., however, had observed, within a few days past, what appeared to be a settled design to assail the credit of documents coming from the War Department. This impression had been especially produced by the mode in which that officer had yesterday been struck at, [by Mr. HAWES,] and it had been confirmed by what had transpired since. This was not a mere personal fancy; the same idea had been forced upon the minds of other gentlemen. There seemed, within the last eight-and-forty hours, to have been something very like a plan to assail that officer. He did not know whether such a purpose was cherished; perhaps he was mistaken. It seemed to be understood by some gentlemen that the Secretary had sanctioned the abandonment of this fort in Boston harbor. It was not so. There was nothing on which to found any such assertion. [Mr. S. here read the letter from the Secretary of War to a member of the House.] Let him now ask any gentleman to say, whether the motion to strike out this fort was a recommendation of the War Department? Did the Secretary doubt the propriety of going on with the work? Where was such a word to be found? Where was the suggestion to postpone it to another time? Did it come from the Secretary? Not at all. But some letter had manifestly been written to him, proposing a reduction; and the Secretary merely responded by saying that if a reduction must be made, it could better be made with respect to works on which nothing or very little had yet been done, than on works which were in a full state of progress. That was all. The letter went not a step further. But he desired to inquire whether it was the purpose of the chairman of the Committee of Ways and Means to make a thorough and general attack upon the whole system of fortification? Was that the plan; and was it to be based on such a letter as the gentleman had produced? Was the honorable gentleman from Tennessee so enlightened, so able, so universal in his attainments and his experience, that he could hold the Treasury in one hand, the War Department in the other, and rearrange the Navy at the same time? Was he to guide and govern, and regulate the House upon matters of all sorts? Mr. S. should suppose that his own department would be enough to occupy any one man; he suspected the gentleman would find it so. He should advise the gentleman to act on that principle, and not to step out of his way to assail the system of fortification, because, from his situation, it was his lot to bring in the necessary bill to pay for his works.

If, indeed, the Committee on Military Affairs had reported against these fortifications, the whole subject would have been fairly open; but he asked whether the gentleman was going to break down the whole system and policy for the defence of the country, upon a question about his appropriation bill? Mr. S. admitted that the expense of particular forts proposed was a legitimate subject for the examination of the Committee of Ways and Means. But was this motion to leave the harbor of Boston without defence, which was to be followed up by a motion to stop the defence of New York, a measure presented to the House by that committee? Not at all. It was a motion founded on the private personal opinion of the gentleman from Tennessee. What was the information submitted to the committee, to the House, or to the country, in support of it? There was none. The gentleman said the expenses must be diminished, as he feared for the revenue. That was all. Now, it would be found that the appropriations contained in the bill, as it came from the committee, were founded on estimates submitted by the Secretary at the commencement of the present session of Congress. But the gentleman trembled for the treasury. Indeed! And what was the representation given by the Secretary of the Treasury himself? On the 16th June, 1834, that officer declared: [Here Mr. S. quoted a report from the Treasury.] Thus it appeared that the commerce of the country had been sustained, and the receipts into the treasury had been greater than had been anticipated. Was, then, the treasury in such a state that the Government could not afford to build this fort? And must the opinion of the chairman of the Committee of Ways and Means settle that question? He would as soon ask the opinion of that committee about the propriety of the objects submitted to the Committee on Roads and Canals, as about objects which pertained to the Military Committee of the House. They had no right to interfere with the one or the other. Mr. S. regretted that his duty obliged him to trouble or delay the House, but he would not consent to sit a silent witness to such a proceeding. The gentlemen from Massachusetts had spoken only what every one in the least acquainted with the facts knew to be true. The property in that harbor was of the utmost value, not only to that city in particular, but to our whole navy. The naval depot and other public property there amounted to sixty or seventy millions of dollars, and it lay completely exposed and liable to be assaulted without the least pro-

tection. Was its protection to be abandoned on the mere suggestion of a chairman of a Committee of Ways and Means? The gentleman had suggested, in like manner, to strike from the bill the fort on Throg's neck, and thus to leave exposed an amount of property of more than two hundred millions. The work had been recommended by the War Department; it was necessary to the defence of New York harbor; but the gentleman from Tennessee did not approve of it. Must it for that reason be given up? The harbor, as was known to most who heard him, had two outlets to the sea: one through the Narrows, between Long and Staten islands; the other through a strait leading into the Connecticut sound. Now, the first of these outlets was tolerably well fortified; it was defended by works on each side. But the strait into Long Island sound had no military defence at all. It was true, as the gentleman from South Carolina [Mr. DAVIS] had suggested, that it was partially defended by the whirlpool called, vulgarly, "Hell-gate;" but that gentleman, if he examined the true state of facts, would find that that pass was as wide, physically, as it was declared to be in a religious sense. The strait might be passed, at a proper state of tide, by any vessel short of a first rate. It had been passed by a forty-four gun frigate; and Mr. S. had been assured, by one of our naval commanders, that it might even be passed by a seventy-four gun ship. The fort on Throg's neck was intended to protect this pass. Without it, the harbor on that side was exposed to an enemy. Must it remain so? Must the work recommended by the Department, and reported by a committee of the House, be abandoned on the suggestion of an individual, unsupported by any official recommendation? He trusted not.

Before taking his seat, Mr. S. observed that it might be thought, by some gentlemen, that he had spoken too definitively in relation to the recommendations and documents from the War Department having been purposely assailed by certain gentlemen in the House. It certainly did seem to him that there had been a studied effort to touch those papers; but he might be under a wrong impression; and, if it should so turn out, he should be glad.

Mr. BEARDSLEY observed that, if he rightly understood the case, an appropriation had been originally recommended of, he believed, $100,000 for a certain fort in Boston harbor; the Committee of Ways and Means had recommended and reported the measure to the House, by inserting it in the appropriation bill. The chairman of the committee now recommended to the House to strike it out of the bill. Mr. B. would be glad to know whether this item had not been already passed upon and approved by the Committee of the Whole House, and whether the present recommendation was the act of the Committee of Ways and Means, or of the chairman of that committee only. The House had had a precedent which went to prove that a committee might recommend a bill, and yet, when that bill was on its final passage, a majority of the committee be found voting against it. How did he know but that that precedent was to be followed at the present time? The only practice in all legislative bodies he had ever known was that, when a bill was brought into the House by a committee, and not materially altered after it left their hands, it was always sustained by the committee, at least, if not by any body else.

Mr. POLK said that he owed it to the House and to himself to say something in reply. He was aware of the great impatience of the House, and he should not detain them. To the gentleman [Mr. BEARDSLEY] who had thought fit to make these remarks he had nothing to say; but he would say this to the House: that he had little expected that gentleman to sustain the uncalled-for and unjustifiable attacks which had been made upon himself and his course in that House. He was quite cool; he felt no excitement; but he must be permitted to say that, when it should become necessary for him to be instructed in his duty, he should not go to that quarter for instruction. In the course he followed on that floor he was actuated solely by the dictates of public duty; under his convictions of that duty he had made a feeble effort to save some of the public money; but his endeavors to do this had, within the few last days, rendered him obnoxious to the displeasure of many of his friends. He regretted it, but he could not avoid it; he must take that course which duty demanded. He had made no assault upon this bill, neither had he assailed the system of fortifications. That system was not now before the House; and he was not called to give any opinion respecting it. The present bill had been confined to appropriations for works which were in actual progress. It had been his intention to vote for the bill upon its final passage. Such was still his intention. The reason why he had moved to modify the bill was, that he had received a communication from the head of the War Department, suggesting the propriety of suspending the appropriations for some of the works originally contained in the bill. It was, indeed, true that this fort on George's island was included in the bill, as the committee had not thought it improper. But he had subsequently received the letter to which he had alluded, accompanied by an informal memorandum, in which it was proposed that this fort should be one of those excluded, as so very small a sum had yet been expended upon it that it might, in some sort, be considered as a new work. Was there any thing inconsistent in this? The gentleman from New York [Mr. SELDEN] had drawn an inference from his course, in relation to the Secretary of War, which was wholly unfounded. The gentleman seemed to imagine that there was something hidden, some concealed design unfriendly to that officer. On what did the gentleman found such a suspicion? Was there a single fact to justify it? Mr. P. was wholly unconscious of having given the least occasion for it; and, such being the case, the gentleman might take his inferences to himself. If that gentleman supposed that he would do indirectly and in a covert manner what he dared not do openly, as a man, the gentleman had wholly mistaken his character, and was ignorant of his whole life. He had a regard for the Secretary of War quite as strong, perhaps, as the gentleman himself had. He meant no covert reflection upon him, nor had he treated his communications in a disrespectful manner. But was it, indeed, so, that, when the House had received recommendations from any one of the Departments, it was bound hand and foot? Could it not depart in the slightest degree from the course marked out by a Secretary? The fact was that the Secretary of War had changed his opinion, as he had a right to do. Because Mr. P. had endeavored, a day or two since, to reduce an appropriation from 600,000 to 300,000 dollars, and had, in the present instance, stated that a different opinion now prevailed at the Department from what had been entertained when the bill was reported, was that to be interpreted as treating the communications of the Secretary of War with disrespect, and as evincing a hidden purpose of making an attack upon him? But he had been asked, and the House had been asked, whether he had a right to do certain things? and the gentleman from New York [Mr. SELDEN] was set up as an umpire. God forbid that that gentleman should be the judge how he discharged his duty on that floor. He had called upon the House to say whether this bill was to be murdered piecemeal? and had very modestly asked why he had not turned it over to them? and had hinted that it was improper Mr. P. should have the charge of such a bill. The gentleman could not but know that he had no power to turn it over to any body. The bill was before the House, and Mr. P. had a right to do any thing in relation to it which his public duty might require; and he

would do it, and not ask the leave of any man. His offence seemed to be that he had an eye to the state of the public finances, and that he had had the temerity to resist the expenditure of the public money.

But he would ask the gentleman where was all that economy, that retrenchment, of which the House had heard so much but a few days ago? Comparisons had then been made between the present and a former administration, and the public had been appealed to against the payment of a few miserable salaries of public officers established by law. Yet now, when hundreds and thousands had been voted, the least motion to check the expenditure was resisted as a crime. Then they had been told that the administration was extravagant, wasteful, profligate—and that the people would shortly put it down. Now, if the Executive chose in the smallest degree to restrain the public expenses, he was denounced as a tyrant, a usurper, a despot. The course of a public servant, in times like these, was full of difficulties on either hand. If he refused to vote, he was murdering the bills required by Government; if he voted, he was taunted with the extravagance of the administration. He had had little expectation of hearing such reflections as had been indulged in; and he regretted that he had been thus called out. He had said nothing about the fort at Throg's neck. It would be time enough when they came to that item in the bill. The gentleman from New York, [Mr. SELDEN,] however, had taken up the subject of the fort in Boston harbor, because he saw that that at Throg's neck was to come next. Mr. P. should not, on the present occasion, present his views on the general subject of forts and fortifications. Did he consider it profitable to enter on such a discussion, he was prepared to do so; but he did not consider that subject as now properly before the House. As one of the Committee of Ways and Means, he had thought it his duty to report this bill in such a shape as most comported with propriety. Fortunately, he had it in his power to show that the suggestion respecting these forts had been acquiesced in and approved by the Secretary of War. He had, he again repeated it, no special opposition to this particular work, for he considered it as a very important and proper one. The question respecting it was, truly and merely, a question of time. The year was now nearly gone, and but a remnant of the season was left for the application of the money, if appropriated. It was true that the bill had proposed 60,000 dollars more for this work than had been granted last year; but the question was on reducing that amount; and it might be reduced without in the least impeding the public service.

As to the remarks of the other gentleman from New York on his left, [Mr. BEARDSLEY,] he did not know whether his remarks were intended to refer to himself or to others; but he would say to that gentleman, that there was a portion of the Committee of Ways and Means who, had the question now been on commencing the system of fortifications, were of opinion that the bill ought not to pass; but since the policy had been adopted and commenced, and, as the duty of providing the means to carry it on pertained to that committee and to no other, they had concluded that they could not withhold the bill from the House. But the dissenting members of the committee had reserved to themselves, when they gave their assent to its being reported, the right of freely opposing it in the House, should they deem such a course proper.

Mr. HAWES addressed the House in favor of the amendment. He said it would be recollected that in the Revolution, when the country was in its infancy, and unable to defend itself, there had been no fort to defend the city of Boston, nor any during the late war, except an old dilapidated fortress that was of no account; yet the enemy had not taken that city. Now, if the city could escape in the last war, when the enemy had a fleet lying off the harbor, where could be the necessity now, in a time of profound peace, when there was not a speck of war any where upon the horizon, to appropriate $100,000 to build a great fort upon this King George's island? Mr. H. said he would not allude to the means by which that patriotic city had escaped a visit from the enemy during the last war, when so vast a quantity of the blood of the patriotic militia of Massachusetts was poured out upon her own territory. Perhaps that fact might account for it. At all events, he would not say that their safety had arisen from their being on rather too friendly a footing with the enemies of their country. But this he would say, that Boston harbor was precisely the last place upon the whole frontier where he would vote money to place a fort. The best defence of our soil was in the hearts of the people. A good Government was better than all the guns that ever were mounted; and a good Government consisted in low taxes. This proposition for a fort at Boston, and the debate upon it, was a just commentary upon the general system. It put him strongly in mind of bee-stealing. If a man went to a row of bee-hives, with the purpose of stealing one of them, he might do so in perfect safety, so far as all the hives but that one were concerned; not a bee from any of the other hives would take the least offence—but let the thief beware of the bees belonging to the hive he disturbed. So gentlemen were quite composed till something was to be done which touched their own district. The House had had a large ox killed, and the West had been invited to the feast; but they were told they must be contented with the tail. And in the end it had happened that, while others wanted the whole of the beef, the West was likely to be pitched under the table. The people of the West were not accustomed, however, to take that place when the enemy were to be met; they were not then to be found at the tail; the enemy would ever meet them in front. Mr. H. said he was not the least surprised at witnessing the attacks which had been made upon his friend, the chairman of the Committee of Ways and Means, [Mr. POLK,] in consequence of his effort to defend the treasury. He hoped that gentleman would consider this treatment, as it really was, one of the highest eulogies which could be passed upon his conduct. He was here engaged in saving the treasury of his country from open robbery—for such it was, and nothing less—and he hoped the whole West would unite with him in putting down such an organized system of plunder. He knew, to be sure, that, should they succeed, the whole hive of New York would flutter and buzz; but they in the West went for the honey, and cared little for the stings. As to this Yankee fort, however, he hoped to have New York with him.

Mr. FILLMORE now called for the reading of the letter from the Secretary of War, to which the chairman had referred.

[The letter was read at the Clerk's table.]

Mr. FILLMORE said that, if what was read was the whole of the letter, there was nothing in it to contradict the estimate on which the proposed appropriation was founded.

[Mr. POLK here interposed, and furnished a memorandum accompanying the letter, which also was read.]

Mr. FILLMORE resumed. The gentleman from Kentucky, [Mr. HAWES,] he said, seemed to congratulate himself on obtaining his vote against the appropriation, because some of the members from Massachusetts had voted to lay the harbor bill on the table; the gentleman would find himself mistaken. Mr. F. should vote on every bill or motion submitted in that House upon its own merits; and should not be governed by what might have been the course of particular gentlemen on other bills. He had at first supposed there was some difference in the estimates of the War Department and the gentleman from Tennes-

see, as to the cost of this fort. He now found that there was none; but that it was only intended to omit the appropriation for the present year. And for what reason was it to be omitted? Professedly, on a recommendation by the Secretary. But the Secretary recommended no such thing. The Secretary had recommended the appropriation; the Committee of Ways and Means had agreed to it, and had reported it to the House; and now, after months had elapsed, an informal letter to a member of the House was produced. And what did it state? That the Secretary had changed his mind? That he had discovered some reason why it was improper to make the appropriation? No: nothing like it. All the Secretary said was, that if the House were determined to reduce the sum asked for, they might omit this fort. That was the whole of this letter, so much relied upon. But if it was proper in peace to prepare for war, and if this work of defence was important and necessary, what was there in that letter to induce the House to withhold the appropriation? Had any new state of things arisen to induce the Secretary, the committee, or the House, to change their views? It was said that no war threatened us. But had we not as much reason to expect war now as we had a few months since? Had any thing occurred, since then, to impair the ability of the nation to defend itself? Was there any wisdom in omitting to fortify when fortification was needed, and the treasury able to bear it? Why, then, was not some good reason advanced in support of the motion to strike out? Why were the House to be told, the Secretary recommended it? Because a work had not yet been commenced, did that prove that it was unimportant; or even that it was less important than other works which had been commenced?

Mr. F. said he would not allude, as a gentleman had done, to the expenditure under a preceding administration. Should gentlemen go into that subject, subjects of profligacy would not be wanting; but he did not admit that works of internal improvement, or works of military defence, were to be numbered among them. The gentleman seemed to consider all such expenditures as mere profligacy. But Mr. F. would rather point to high salaries, and to the enormous system of pensions. Money judiciously applied in the erection of fortifications was any thing but wasted. The gentleman from Kentucky [Mr. Hawes] might not fear any injury he should sustain from an attack on Boston harbor; but that did not render it the less his duty to provide for its defence. The country was one; its safety was one. It was then his duty to provide for the security of every part of it. Had the nation ever objected to pay the expenses of the late border war to protect the West from the ferocity of the Indians? Had it refused to erect forts upon the frontier? Ah, but all these were national expenditures. Indeed! and was not a fort to protect a harbor in the East as national an object of expenditure as a fort to protect the frontiers of the West? Mr. F. should vote for the item. Local feelings had nothing to do with it. He went alike for Boston, New York, and New Orleans.

Mr. McKINLEY said that he had felt the force of the rebuke administered to the chairman of the committee, [Mr. Polk,] but not its justice. It had been complained that that gentleman reported a certain item in an appropriation bill, and now was prepared to vote against it; and the committee, generally, had been involved in the same censure. It was represented as something new and strange that the members of a committee who had reported a bill should be willing to vote against any part of it. But did gentlemen who talked in this way know how the committee came by that bill? They had been furnished with the estimates from competent authority; and on those estimates alone they had reported this bill. Could they go to Boston, and Throg's neck, and New Orleans, to examine the grounds, and judge of the propriety of the works asked for? They must, of course, be guided by the representations of the Department. It was strange that they should be called upon for reasons, when the gentleman on the other side had given none. No doubt, the gentleman from New York [Mr. Fillmore] knew his own reasons, and also that the appropriation had been recommended by the War Department, which was all the gentleman had given; but if the gentleman undertook to judge of his (Mr. McK.'s) reasons, and to say that the committee were derelict to their duty, he ought to show some grounds for what he asserted. Till then, the assertion must be set down as wholly gratuitous, and without foundation. Mr. McK. would go further; and he would say that, if he had reported a bill on his own mere motion, and afterwards discovered that he had proceeded on mistaken grounds, he would vote against it. [Here Mr. McK.'s remarks became inaudible to the reporters, and the residue of his speech was, to them, lost.]

Mr. PEYTON said he was not for killing this bill by piecemeal. He was opposed to that process of torture; he was for beheading it at once. He was opposed to the entire system. If a fort was to be voted any where, he should as soon vote for it at Boston as at any other place; for he could never forget the services and sacrifices of the people of Boston in our revolutionary days. He remembered, too, gratefully, the names of Hancock, and Adams, and Warren; he cherished the memory of those noble-spirited men as fondly as if they had been born in the same region with himself. It was not because this fort was in Boston harbor that he should vote against it; but because he considered the whole system as partial, unjust, and impolitic. His home was, indeed, upon the opposite frontier; but he viewed a fortification as national on one frontier of the country as on the other. But the safety of a nation did not consist in lofty battlements and towers; it lay in men, high-minded, brave, patriotic men. When the enemy sought to invade our land, they would not come in front of a fort to do it; they would choose an undefended point; and such they would always find, for he presumed gentlemen did not propose to defend the whole country with a wall. He relied on the citizens—on the militia of the country. They were able to protect their own soil, and, if they failed, forts and walls were of no value.

The gentleman from New York [Mr. Fillmore] had spoken about the Indian wars, and the expenditures for the defence of the western frontier. New York and the Eastern States had not complained, the gentleman said, of the burden of protecting the West. In a pecuniary point of view, the East never should claim the West as her debtor. Look at the millions which went from the Western States every year in payment for the public lands. And should they be told about the money paid by the Eastern States for Indian wars? Did the gentleman mean to be understood as denying that these wars against the Indians were national wars? Were they not to protect the whole country? Ought it not to be sufficient for the men of the East that they had been spared the necessity of hazarding their lives? Did the gentleman mean to say that the settlers of the great West were to blame, because a portion of the money they had paid for their lands was expended in protecting their wives and children from savages? What would the proceeds of those lands be but for these hardy settlers—men who had dared every danger, had hazarded their lives and expended their blood in defending the soil, and were now denounced by men who knew nothing about them; men who had no sympathy with them? What would this whole country have, been had not these men and their fathers taken their lives in their hands and plunged into the deep wilderness, where Indians were concealed in every brake? Yet the few who had escaped the tomahawk were grudged, it seems, the means of protection.

They were charged with having aggravated the Indians, and provoked them to hostilities, for which the East had to pay. He denied the charge. He called upon gentlemen to make it good. The savages had been set upon the country by others; and because the western people were on the frontiers, they became the first victims. Their houses were laid in ashes, and the flames of their houses had been quenched in the blood of their children; and, when they rose to defend themselves, they were reviled as the aggressors. He repelled the accusation; it was unfounded. It could not be sustained. He again insisted that this whole system of local fortification was wrong; it ought to be abolished. Why should he mince the matter? He held the whole thing to be wrong; and he would say so. Let gentlemen go to the Western frontier, let them build a fort at every mile from the lakes to the Pacific, and what would they avail? Would they protect the country? With what would you man them? With poor, miserable, worm-eaten soldiers? Was it upon these the people of the West were to rely for safety? No; it was upon the men who tilled the fields--to whom their fields were dear--who had laid them open to the sun, and looked to them as the home of their children. These were the men to meet their savage foe; they would not creep into forts, and get behind stone walls; they would meet the savage where he came, and not wait for him to attack stone bastions. Gentlemen might build up their fortifications till they reached the moon; the foe would leave them untouched, and would concentrate his treacherous attack on the weak and defenceless part. If it was said that in the East the country was more densely settled—admitted; and, therefore, they were the more able to defend themselves. But if not, let them go to the West. There the people asked no better entrenchments than a log or a stump to fight behind. Their trust was in brave hearts and strong arms; their own bosoms were their best rampart. He was aware that the Committee of Ways and Means were in favor of these appropriations to some extent; but he thought they were wrong. If they approved of them, let them go the whole; if they thought the system wrong, let them abolish it altogether. The friends of the administration had now the power. Let them use it. Yet he saw a bill introduced which appropriated $800,000 for harbors, and passed, after a successful attempt to lay it on the table! Now, then, came up its counterpart, in this bill for fortifications. Now, he hoped the people of the West would say to the House, we will have full and ample justice, or we will have none of it. He saw bills coming into the House, and reported from committees where the friends of the administration were in the majority, for large national schools. Now, he thought they had been opposed to that construction of the constitution which admitted of any such expenditures by the General Government. He wanted to see gentlemen act consistently and candidly. He wanted them to take a bold and upright stand. He wanted to see them take a sweep of sixty. Let them do one thing or the other; either bring in the whole latitudinarian system, or keep it out altogether. He called upon every man to aid him who went for Jackson, economy, and the constitution.

Mr. REED observed that he had but little to say. The debate, it seemed to him, had taken a most extraordinary turn. Did gentlemen forget what the country had seen during the last war? Had not the British fleet laid near our harbors the whole war? Had they not landed their troops, and subjected us to the loss of millions? And had not all this arisen from the want of fortifications upon our seaboard? And had not the country seen and admitted the necessity of fortifications, and subjected the whole coast to military examination, for the very purpose of determining where the works were most needed? The entlemen from the West, he was well assured, did not understand the case, or they could never have taken the ground they did. They had talked with much patriotic pride about stout hearts and strong arms. These were good things; but what would they do against a seventy-four gun ship? One gentleman had talked about getting behind a stump to fight. Was that the way he proposed to resist a ship of the line? Gentlemen talked as if it was proposed to build a fort every five miles along our coast. But where were these works? Were they so very thick and numerous? They were only at the mouths of our great harbors, to resist the approach of their heavy shipping. There was but one in Massachusetts, and one in Virginia. They were only to be placed where the water was deep, and where vessels of great dimensions could come. Very great pains and caution had been observed in the previous examination. An engineer of the highest standing, of great and acknowledged skill, had examined every point before any work was determined on. The gentleman was entirely mistaken in his apprehension of the matter. Mr. R. felt confident he had not made himself acquainted with the facts of the case. The gentleman had asked of the House, why fortify in a time of profound peace? Why? Obviously because that was the only time in which it was possible to fortify. Works on the seaboard, at exposed points, could not be fortified in the face of an enemy. It was true the workmen might drop their tools, and run behind a tree or a stump, but they could not prosecute their work, nor save it from the guns of a ship of war. Mr. R. said he went in this, as in all cases, for a broad national policy. He would not vote for works because they were in this State, or in that State; but wherever the valuable harbors of the country lay, there he would build forts to protect them. On the same principle, wherever works of internal improvement were most needed, be they in one section of the Union or another, he would appropriate to carry them on. Mr. R. said he had often passed by this George's island in entering and passing out of Boston harbor. He was no engineer, and did not pretend to speak from any military science; but those who did possess that science, in its highest degree, had pronounced upon the practicability of defending Boston by a fortress erected there. This was enough for him. He had voted, for the last twelve years, in favor of these works of fortification. Nor had a single man from Massachusetts raised his voice in opposition to such works, when proposed to be erected in the other States.

Was it not somewhat extraordinary that now, after the general system had been pursued for twelve years, a fort of the first class, at a point of so much importance, should be resisted, and a motion made by the chairman of the Finance Committee to strike it out of the appropriation bill? And on what sort of reason was such a motion founded? It was said that but little work had yet been done upon this fort; admitting such to be the fact, was their having waited patiently so long to be urged as a reason why they ought to be put off still longer? If the money was economically expended, why not apply it now as well as another year? The gentleman from South Carolina had made one remark which had escaped him. The gentleman had asked what good had the fort upon the Potomac done in resisting the approach of the enemy during the last war? Very true—Mr. R. wanted no better illustration of his doctrine. If there had been a proper and sufficient fort there, the city would never have been taken. It was the defect in that very fort which subjected the nation to the humiliation of having its Capitol burned. So long as there were such things as ships of war, we must have such things as forts to resist them; Bonaparte well knew their value. It was true that he had been the first general who had proceeded on the plan of passing forts and leaving them behind, with a force to watch them. Yet it was this same Bona-

parte who had so thoroughly fortified his own great harbors of Brest and Cherbourg. He did not seem to place entire reliance either on stumps or on men's bosoms, but had erected vast bastions of stone instead, by which he was able to withstand ships of the line of 74, 90, and 100 guns. Mr. R. was not satisfied with what had been said respecting the Secretary of War. It had been alleged that that officer was opposed to an appropriation for this fort during the present year. Mr R. saw no evidence of this. The Secretary had given the House a bill containing this item. That was the best expression of his opinion on the matter. But how had it happened that he had written a letter to somebody, saying that this work might be deferred? Manifestly, because somebody had first written to him, suggesting a supposed necessity of reducing the estimates. Mr. R. had called at the Department with the design of getting a sight of the letter written to the Secretary, as well as that written by him, but had not been able to obtain it. The letter, no doubt, was in substance this: "Mr. Secretary, your estimates for this year are too large. The House cannot pass them; they must be reduced; and now please to say where the reduction can best be made." The Secretary, thus pressed, had replied, that if any works must be dispensed with, it might be best to begin with those on which the least amount had been expended. Why did not the chairman show the letter which some member had addressed to the Secretary? Let that letter be produced, and the whole mystery would be explained in a moment. Mr. R. trusted the appropriation would pass without further opposition. A more important fort for the defence of the commerce, the navigation, and the naval resources of the country, did not remain to be erected. It had long since been proposed in the general plan of fortification; and now, after so long a delay, when the appropriation had been duly inserted in the bill, he hoped the guardian of the bill would not succeed in turning it out.

Mr. PEYTON now moved to strike out the enacting clause of the bill.

Mr. JONES, of Georgia, supported the motion. He wanted (to use the gentleman's phrase) the House to "take a sweep of 60," and strike out not one of these appropriations, but the whole of them. They were but entering wedges to new and vast expenditures.

The gentleman from Massachusetts seemed to believe that the harbor and city of Boston were at present in a state of great danger. But the gentleman from South Carolina had said that, for one million of dollars, granted to his own State, he would undertake to guaranty the safety of that city and harbor for ever. Mr. J. said he was of the same opinion, and would have no objection to become joint security with his friend.

The House had been told of the liability of the harbor to the attack of an enemy; but did history teach the same lesson? Did experience prove that that city had been so greatly endangered? Had it sustained any injury during the last war from an enemy's fleet? Not that he had ever heard of. And had there been a fort on George's island to protect it? There had not. And why was there any more need of such a fort now, in a season of profound peace? The work itself would cost a vast sum; and then an enormous amount more would be requisite to arm it with cannon, and garrison it with soldiers. The invention of steamboats, gentlemen should recollect, had made a vast change in the security of harbors and the facility of defending them. No squadron could lie in safety at the mouth of any harbor where armed steamboats could move against it. He did not mean to say that steamboats could prevent their lying there; but, should the squadron be becalmed, steamboats might not only annoy, but attack and capture it. He gave the opinions of naval men, not his own conjectures, and he believed their opinions in this matter were perfectly correct. He heard gentlemen near him observe that the enemy could have steamboats too; but that was not to be expected. The House had been gravely told that no money had been expended on Boston harbor. Did gentlemen forget that an appropriation of $75,000 had been expended upon this very George's island?

Mr. REED here interposed. The appropriation the gentleman referred to was not for fortifications; it was merely for a sea-wall, to prevent the shores of the island from being washed away. It only secured a solid foundation for the fort. He would remind the learned gentleman, who seemed so well acquainted with the means of harbor defence, that a sea-wall was not a fort.

Mr. JONES. Very true; but $75,000 is money; and money appropriated for Boston harbor. Gentlemen told the House that these fortifications were indispensable for the security of our commerce. He insisted that we had quite enough of them. It was false policy to build more. Where was to be the end of it if we had a coast of upwards of two thousand miles in length? Could we put a fort wherever a vessel might run in and land troops? He prayed gentlemen to consider the number of troops it would require to man all these works. Our army was now but 6,000 men, or less than that. Should this policy continue and prevail, we must have a standing army of ten times that number. The gentleman said that, had it not been for some defect in Fort Washington, on the Potomac, this city would not have been taken. Now, Mr. J. was mistaken if the British ships had not entered this city through Bladensburg. [Loud laughter.] He meant to say troops, not ships. The gentleman had said that one fortress defended Virginia. But would a fort upon the Rip Raps, or would Fortress Monroe, prevent the British squadrons from ascending the Chesapeake and laying waste the country? There was no fort in Boston harbor last war, yet he did not know that the British had done much at laying waste the country round that city. They did not, for some reason or other, seem to wish to hurt it. Why build a fort to defend what was never attacked? Mr. J. was against the whole system. It must lead to an annual appropriation for the garrisoning of these works, which would soon far surpass the cost of the forts themselves. [Here the debate was arrested by an adjournment; the motion pending being that of Mr. PEYTON, to strike out the enacting words of the bill.]

FRIDAY, JUNE 20.

DEPOSITE BANKS.

Mr. POLK, from the Committee of Ways and Means, reported a resolution proposing to make the bill "regulating the deposites of the money of the United States in certain local banks" the special order for 12 o'clock this day.

Mr. E. EVERETT inquired whether, as this day was set apart by the rule for the consideration of private bills, it was competent for a majority to adopt the resolution?

After a desultory conversation on the point of order involved,

The SPEAKER decided that the resolution could only be received by suspending the rule for that purpose.

Mr. POLK accordingly moved a suspension of the rule; which motion was decided in the affirmative: Yeas 114, nays 54.

So the House having suspended the rule, and the question being on the adoption of the resolution,

Mr. JONES, of Georgia, moved to strike out "this day," and insert "Monday next;" which motion was rejected.

Mr. WATMOUGH moved to insert "Tuesday;" which having been also rejected,

Mr. CHILTON said that, as he believed, if this subject was to be taken up, so ought the joint resolutions from the Senate, declaring the reasons of the Secretary of the Treasury for the removal of the deposites, insufficient; and the one for the restoration thereof to the Bank of the United States; and he moved an amendment to the resolution to that effect.

The SPEAKER decided that this amendment was not in order.

A desultory conversation on the point of order arose, in which Mr. ARCHER, Mr. WILLIAMS, Mr. ANTHONY, Mr. J. Q. ADAMS, and Mr. BOON, participated; after which the resolution of Mr. POLK was adopted.

HARBOR BILL.

Mr. LANE rose and moved a reconsideration of the vote by which the bill making additional appropriations for the improvement of certain harbors, and removal of obstructions in certain rivers, was yesterday laid on the table.

Mr. WATMOUGH expressed his hope that, if the vote was reconsidered, it should be with the understanding that the subject would be immediately proceeded with; otherwise, he would warn gentlemen, under the circumstances that the House were in, from having so recently fixed the other bill to be taken up at 12 o'clock, they would gain but little by the motion to reconsider.

Mr. BEARDSLEY rose to state that he believed there had been some misconception as to the appropriations made by the bill in question, as he believed it contained no appropriations but those that were ordinarily made for the purpose of completeing works already commenced. There was a proposition to engraft on the bill an appropriation of $29,000 for surveys, but which was rejected, he believed, more from the want of a proper understanding or explanation as to its objects, than any thing else, and which induced the House possibly so to reject it, without referring to what had been its former practice in making similar appropriations.

He understood that, out of the sum proposed to be given for defraying the expenses of these surveys, 10 or 20,000 dollars had been already expended. These explanations, he believed, were not made, or, if made, were not generally known to or understood by the House as they should have been, or there might have been a different result.

Mr. LEWIS, to save the time of the House, and believing this subject had been sufficiently discussed, moved to lay the motion to reconsider on the table.

Mr. E. WHITTLESEY called for the yeas and nays, which were taken, and the motion of Mr. LEWIS was rejected: Yeas 74, nays 104.

So the House refused to lay the motion to reconsider on the table.

The question being on the motion to reconsider, after some remarks from Mr. MERCER and Mr. POLK,

Mr. SUTHERLAND moved to postpone the special order of the day until one o'clock; which motion prevailed: Ayes 96, nays 56.

The motion of Mr. LANE to reconsider was decided in the affirmative: Yeas 123, nays 72.

So the House having agreed to reconsider the bill,

Mr. BEARDSLEY moved a reconsideration of the vote by which the amendment proposed yesterday by Mr. MERCER was rejected, viz: "And for defraying the expenses of surveys, pursuant to the act of 30th April, 1824, including arrearages for 1833, 29,000 dollars.

Mr. B. informed the House that 25,000 dollars had been appropriated for these surveys for some years, and he understood there was an expense of at least 16 or 17,000 dollars incurred for surveys ordered to be made last year, which would reduce very considerably the appropriation in the amendment. The House, if it thought proper, might reduce the sum to that, or such other sum as it would deem expedient.

Mr. MERCER said he could not consent to any reduction; he would rather increase the amount to what was originally proposed, viz: 30,000 dollars, and which he thought was necessary.

Mr. FELDER called on those who had assisted in rejecting the amendment to continue their exertions, and, by refusing to reconsider the vote, thus take the first steps that were necessary to crush, what he believed the country deemed to be a bad system, internal improvement, when in the hands of the General Government.

Mr. EVANS rose for the purpose of correcting the member from New York, [Mr. BEARDSLEY,] in the statements he had made. The House, he believed, knew fully that part of the appropriation was intended to defray the arrearages of 1833; and also knew that it had been usual to make such appropriations for ten years past.

Mr. BRIGGS now moved the previous question; which was seconded: Ayes 93, noes 40.

The previous question was then put; but before the vote was taken,

Mr. JONES suggested that the hour of one o'clock had arrived, and insisted on proceeding to the special order of the day, viz: Mr. POLK's bill to continue the deposites in the State banks.

After a desultory discussion on questions of order, the order of the day was postponed to 3 o'clock.

The previous question was then put and carried.

The main question, on reconsidering the rejection of the amendment of Mr. MERCER, appropriating $29,000 to the continuance of surveys, was put, and decided by yeas and nays, as follows: Yeas 101, nays 75.

So the House agreed to reconsider that question.

DEPOSITE BANK BILL.

The House then proceeded to the special order of the day, and took up the bill regulating the deposites of the money of the United States in certain local banks.

The bill having been read, Mr. POLK addressed the House as follows:

Mr. Speaker: The advanced stage of the session, and the evident propriety of proceeding, with all convenient despatch, to dispose of the mass of other public business upon your table, will alike conspire to induce me to condense very much what I had proposed to say upon the subject of the currency, and the legal provisions deemed proper to be made for the future management and safe-keeping of the public money. The bill upon your table has been prepared and brought forward by the Committee of Ways and Means, in accordance with the principles understood to be settled by the resolution of the House, which affirmed "that the State banks ought to be continued as the place of deposite of the public money, and that it is expedient for Congress to make further provision by law, prescribing the mode of selection, the securities to be taken, and the manner and terms on which they are to be employed.'

The bill is designed, so far as legislative provisions are deemed proper, to carry that resolution into effect.

In the report of the Committee of Ways and Means, submitted to the House upon a former day of the session, and which concluded with this, among other resolutions, which were afterwards concurred in by the vote of the House, the committee state that, "According to the law, as it now stands, the duty of selecting the banks, and of prescribing the securities to be taken, is devolved upon the Secretary of the Treasury, under the supervision of the President. This power has been heretofore exercised by the head of the Treasury Department, and in a manner advantageous to the public; and it is not doubted, if the law should continue unchanged, that it may and will

continue to be so exercised by the head of that Department; yet it is the opinion of the committee that discretionary power should never be given, in any case, to any officer of the Government, where it can be regulated and defined by law. They think that it would be more consistent with the principles of our Government for Congress to regulate, by law, the mode of selecting the fiscal agents, the securities proper to be taken, the duties they shall be required to perform, and the terms on which they shall be emoloyed."

The opinion, here expressed, of the actual powers of the Executive, under the existing law, was founded not only upon a careful examination of the law itself, but upon the construction given to it, the uniform acquiescence in that construction, and the practice under it, from the earliest periods of the Government, and running through every administration, down to the present time. But we are here met at the threshold, and told, if this be so, why legislate upon the subject? "If it is all very well as it is, why should there be any legislation about it?" In the course of a former debate upon this subject, the same gentleman [Mr. Wilde] thus expressed himself:

"But it has been said, and will be said, the money of the nation is in the selected banks—it will do no good to remove it—will you not provide for its safe keeping there? I answer, frankly, No! I will not consecrate usurpation by law. They have seized upon the Treasury. Unless we, its constitutional guardians, can restore it to its safe and proper depository, let them keep it till they can be impeached. If tyranny will not rouse the people, ruin will."

It is here distinctly avowed, in anticipation that such a measure as this would probably be brought forward, that it was to be opposed. Indeed, there is reason to doubt whether there be any measure connected with the revenue, short of the recharter of the Bank of the United States, or tending ultimately to produce its recharter, which can receive the support of a part of this House.

I have simply to say to gentlemen who hold these opinions, that they occupy a position which, in my judgment, cannot be maintained. It seldom happens that laws are so perfect that they cannot be amended. The public money is now in the local banks. This House has decided that it shall not be removed from them; and, although the Secretary of the Treasury, under the existing law, possesses the power to continue their employment, yet the committee have given it as their opinion, that discretionary power should not be given to any officer of the Government when it can be regulated and defined by law. The Secretary of the Treasury, under the law as it is, possesses a large discretion. The bill proposes to limit that discretion; and I submit to those gentlemen who express apprehensions that the executive control over the deposite banks may be used as a dangerous branch of the executive patronage, and may be subject to be abused, whether they can object to the limitations and restrictions which this bill proposes to impose on the Executive? If the provisions of the bill are not proper, I suggest to them to come forward and propose others that are better, and, so far as I am concerned, they shall be at once accepted. The mere allegation that the power assumed in the removal of the deposites was not warranted by law, can be no sufficient reason why we should not legislate on the subject at all, but is rather a reason why we should by law define and make certain that which now gives rise to a difference of opinion.

But it is objected that the State banks are wholly incompetent to perform the duties of fiscal agents of the Government, and that, therefore, it is unnecessary to legislate in regard to them. It has been maintained that a national bank is necessary as a regulator of the paper currency of the State banks, as a test "in defence of the nation," against local bank paper, and as essential to "keep in order the currency of the country every where."

The minority of the Committee of Ways and Means, in their counter report upon the subject of the deposites, maintain that, "if the present bank is not to be rechartered, something to regulate the currency must be provided in its place. The plan of the Secretary gives over the regulation to State banks, which will themselves be promoters of the disorder. The country requires something which will regulate the State banks." That "State banks and their operations are to be controlled, and not the controlling power, in the execution of such a design."

Now, sir, I affirm that there is no power given to Congress, by the constitution, to create such a regulator. I am not about to go at large into the question of the power of Congress, under the constitution, to create a bank. The power, I will, however, say, is maintained by its advocates, upon the exclusive ground that a bank is necessary as a Government agent in the execution of some express power. The power has never been placed, even by the boldest of its advocates, upon the ground that such an institution was necessary to regulate and control the paper currency of the States. This startling doctrine is now, it is believed, for the first time assumed in an official paper emanating from and having the sanction of a minority of a committee of this House. What are the powers of Congress in regard to the currency? Congress may "coin money and regulate the value thereof;" but this they do by fixing by law the value of gold and silver coin; and this power is executed by the mint, and not by the bank. The argument is, that a national bank is necessary as a regulator of the paper currency of the States. If this be so, then Congress have conferred upon a corporation of its own creation, a power which they do not themselves possess. Congress possess no power, either express or implied, to create an agent to regulate the paper currency of the States. It is a power and a check thrown over the States, wholly unknown to the constitution. To create an arbitrary regulator of paper currency, without a competitor, which may contract or expand its issues at pleasure, is to put in its power the regulation of the money price of the whole property of the country. By contracting its issues it makes money scarce, and, in proportion to its scarcity, the more valuable, and thus reduces the money price of property. By expanding its business it makes money abundant, and raises the price of property. A regulator, without any power reserved any where to check or control it, might subject the property of every individual to sudden, great, and ruinous depreciation. Is it safe to commit the value of the whole property of the country to the fluctuations in price which such a regulator, in the form of an irresponsible corporation, may and certainly would produce? We have it from high authority, the President of the Bank of the United States himself, that the State banks exist by the forbearance of the Bank of the United States, and that "there are very few State banks which might not have been destroyed by the exertion of the power of the Bank of the United States." Ought such a power of destruction to be granted to any corporation? Was such a power deemed to be necessary by the framers of the constitution?

I propose very briefly to look into the origin and history of this bank question under the Federal Government. The first national bank established was the Bank of North America. That bank was incorporated by the old Congress, in December, 1781. Doubts existing as to the power of the old Congress to create such a corporation, resolutions were adopted requesting the several States to pass laws of incorporation. Accordingly, Pennsylvania passed an act incorporating the same Bank of North America in 1782; three years afterwards (in 1785) she

repealed her act of incorporation, and in the repealing act is found this remarkable preamble, assigning the reason of the repeal: "Whereas the bank established in the city of Philadelphia hath been found to be injurious to the welfare of this State, and in its tendency appears to be incompatible with the public safety, therefore," &c. The act was repealed, because, in the opinion of the Legislature of the Commonwealth of Pennsylvania, the bank was incompatible with the public safety. It is true that, two years afterwards, (in 1787,) another political party came into power in that State, and passed a law repealing the repealing act of 1785, and thus revived the Bank of North America. But in the preamble to that act, also, it is declared that in the charter of incorporation such limitations and restrictions should be imposed on the bank, that it should not become "an object of jealousy or apprehension to the good people of this State." This was immediately preceding the meeting of the convention which framed the present constitution, and the state of public opinion in relation to the Bank of North America, in Pennsylvania, and doubtless in other States also, must have been perfectly familiar to the members of that body. In confirmation of this, Mr. Jefferson, in his correspondence, details the following important facts, viz:

"March 11, 1798, Baldwin mentions at table the following fact: when the bank bill was under discussion in the House of Representatives, Judge Wilson came in, and was standing by Baldwin, who reminded him of the following fact, which passed in the grand convention. Among the enumerated powers given to Congress, was one to erect corporations. It was, on debate, struck out. Several particular powers were then proposed. Among others, Robert Morris proposed to give Congress a power to establish a national bank. Governeur Morris opposed it; observing that it was extremely doubtful whether the constitution they were framing could ever be passed at all by the people of America; that to give it its best chance, however, they should make it as palatable as possible, and put nothing into it not very essential, that might raise up enemies; that his colleague (Robert Morris) well knew that a bank was in their State (Pennsylvania) the very watchword of a party; that a bank had been the great bone of contention between the two parties of the State, from the establishment of their constitution, having been erected, put down, and erected again, as either party predominated; that, therefore, to insert this power would instantly enlist against the whole instrument the whole of the anti-bank party of Pennsylvania. Whereupon, it was rejected, as was every other special power, except that of giving copyrights to authors, and patents to inventors; the general power of incorporating being whittled down to this shred. Wilson agreed to the fact."

These facts show the jealousy with which, at a very early period, moneyed corporations were viewed. The secret journal of the convention, published for the first time a few years ago, shows that all attempts to confer upon the new Government an express power to create such a corporation as the present Bank of the United States, received no favor in that body. Such a corporation was not, therefore, at that time, regarded either as an indispensable fiscal agent, or as a regulator of the currency.

When the old Bank of the United States was incorporated, in February, 1791, it was not upon the ground that it was required as a regulator of the currency, and that the State banks were incompetent to discharge the duty of fiscal agents. Upon the point of the competency of State banks to do the business of the Government, Mr. Jefferson, in his cabinet opinion, upon the occasion of granting the charter to the old Bank of the United States, in 1791, thus expresses himself, viz:

"Besides, the existing banks will, without a doubt, enter into arrangements for lending their agency; and the more favorably, as there will be a competition among them for it; whereas the bill delivers us up bound to the national bank, who are free to refuse all arrangements, but on their own terms, and the public not free, on such refusal, to employ any other bank. That of Philadelphia, I believe, now does this business by their post notes, which, by an arrangement with the Treasury, are paid by any State collector to whom they are presented. This expedient alone suffices to prevent the existence of that necessity which may justify this assumption of a non-enumerated power as a means for carrying into effect an enumerated one. The thing may be done, and has been done, and well done, without this assumption: therefore, it does not stand in that degree of necessity which can honestly justify it."

In the memorial of that bank for a renewal of its charter, presented to Congress December 18, 1810, the same objections were urged against the employment of State banks that are now heard from those who advocate the recharter of the present bank. In that memorial the old Bank of the United States holds the following language to Congress, viz:

"As to the State banks, your memorialists are fully sensible of the benefits resulting from their establishment, and of their sufficiency for the purposes of their institution, the local accommodation of the places in which they exist. But their capitals are by no means adequate to the demands of the General Government, in a time of emergency; a time when the ordinary claims of their own State Governments, and of their own particular customers, would be increased, and entitled to preference. Neither could the transmission of the public moneys, from one quarter of the Union to another, be effected with sufficient ease and despatch, or to the requisite extent, by banks of limited capital, having no connexion with nor direction over each other."

"Nor would it be prudent in the Government to trust the deposite of its funds, to the extent to which they sometimes exist, in a variety of institutions, united by no common bond, and in no degree responsible for each other; over whose conduct the General Government could have no control; into whose management and condition it could not legally inquire; and which those institutions, even if disposed, could not legally communicate. Independent of the hazard to which the public moneys might be subjected by mismanagement, a power would be placed in hands which, from want of responsibility and want of control, might be used to injurious purposes." "Nor is it easy to calculate the effects which the destruction of the bank would produce in the loss it would occasion to the public revenue, to charitable institutions, widows, children, and others interested in the stock; from the pressure to which the other banks must be inevitably subjected; from the want of confidence it would create in the stability of our institutions; and from the general derangement of credit."

But this argument of the bank did not convince the Congress of 1810, and the recharter was refused.

In a report made to Congress by Mr. Gallatin, then Secretary of the Treasury, on the 10th of January, 1811, upon the subject of the recharter of the old bank, it is expressly conceded that a national bank is not indispensable, either as a Government agent or as a regulator of currency. In that report it is furthermore expressly admitted that "State banks may be used" as Government agents, "without any insuperable difficulty." The report states: "That the public moneys are safer by being weekly deposited in banks, instead of accumulating in the hands of collectors, is self-evident. And their transmission, whenever this may be wanted, for the purpose of making payments in other places than those of collection, cannot, with any convenience, be effected on a

large scale, in an extensive country, except through the medium of banks, or of persons acting as bankers. The question, therefore, is, whether a bank incorporated by the United States, or a number of banks incorporated by the several States, be most convenient for those purposes. State banks may be used, and must, in case of a non-renewal of the charter, be used by the Treasury. Preparatory arrangements have already been made to that effect, and it is believed that the ordinary business will be transacted, through their medium, with less convenience, and, in some respects, with perhaps less safety than at present, but without any insuperable difficulty." "If, indeed, the Bank of the United States could be removed without affecting either its numerous debtors, the other moneyed institutions, or the circulation of the country, the ordinary fiscal operations of Government would not be materially deranged, and might be carried on by means of another general bank, or of State banks. But the transition will be attended with much individual, and probably with no inconsiderable public injury. It is impossible that an institution which circulates thirteen millions of dollars, and to whom the merchants owe fourteen, should terminate its operations, particularly in the present unfavorable state of the American commerce, and after the great losses lately experienced abroad, without giving a serious shock to commercial, banking, and national credit."

State banks, then, were not regarded by Mr. Gallatin as incapable of doing the public business; and I undertake to affirm, and to prove, that they were not so regarded even by the Congress of 1816, by which the charter to the present bank was granted. It is clear, from that charter itself, that State banks were looked to as depositories of the public money, and were considered competent to perform the duties of fiscal agents of Government. By the 14th general regulation of the 11th section of that charter, it will be found that Congress reserved to itself no power to require the establishment of any branch of that bank in any of the States. They might by law require the establishment of a branch within the District of Columbia. If the bank had failed or refused to establish any other branch in any other place, can it be maintained that the Government would have been compelled to make the whole deposite of its revenue, collected as it is at so many points distant from each other, either in the principal bank at Philadelphia, or its branch in Washington? Had no other branch been established, would these have been the only proper depositories? The same article of the bank charter, it is true, provides that Congress may by law require the establishment of a branch "in any State in which two thousand shares shall have been subscribed or may be held, whenever, upon application of the Legislature of such State," they may be requested to do so. Before Congress can pass a law requiring the establishment of a branch in any State, two contingencies must happen: first, two thousand shares of the stock of the bank must be held by citizens of such State; and, secondly, application must be made to Congress by the Legislature of such State, requesting Congress to pass a law for that purpose. If both of these contingencies shall not happen, Congress cannot require the establishment of such branch. But to show the more clearly that the employment of State banks was contemplated and looked to by the framers of that charter, the same article further provides that "it shall be lawful for the directors of the said corporation, from time to time, to employ any other bank or banks, to be first approved by the Secretary of the Treasury, at any place or places that they may deem safe and proper, to manage and transact the business proposed as aforesaid, other than the purposes of discount, to be managed and transacted by such officers, under such agreements, and subject to such regulations, as they shall deem just and proper." But though lawful thus to employ State banks, yet no power is reserved whereby to compel the Bank of the United States to do so. If the Bank of the United States had failed or refused, either to establish branches, or to employ the State banks selected and "first approved by the Secretary of the Treasury," would the Secretary have been compelled to keep the whole public treasure at Philadelphia and Washington? Would not the public convenience have required the selection, by the head of the Treasury Department, of State banks, as the depositories and agents of the Treasury? This had always been done, before that period, by the head of that Department. State banks were at that time, and had been from the earliest periods of the Government, employed as such depositories and agents. Was it intended to limit the power of the Treasury to continue their employment, or to change the practice? Indeed, by the 16th section of the Bank charter, the money of the United States is to be deposited only "in places in which the said bank and branches thereof may be established." In places where there was no bank or branches, the State banks were necessarily to be employed, and they have been ever since, as well as before the date of that charter, so employed. Since the date of that charter, numerous State banks have been constantly employed as depositories in places where no branch of the United States Bank was established; and, in some instances, in places in which such branches existed; and this without objection from the bank, or any other quarter, until recently. These provisions of the bank charter, to which I have called the attention of the House, distinctly recognising, as they do, the employment of State banks, prove, 1st. That the Bank of the United States is not the Treasury! 2d. That it is not the only legal or proper depository of the public money; and, 3d. That, in the opinion of the Congress of 1816, State banks were to continue to be employed; that they contemplated their employment by the Treasury; and that even the authors of the bank charter themselves regarded them as competent fiscal agents, able to perform, as they had in fact before that time performed, all the duties and services required by the Government.

The argument, then, so much relied upon to prove the incompetency of the State banks, and the necessity for a national institution, as a Government agent and regulator of currency, seems to be not only without just foundation, but to be wholly disproved, both by the authorities cited and the practice of the Government from the date of its organization. I hesitate not to affirm that the State banks, if banks are to be employed in aid of the Treasury in the collection and disbursement of the public revenue, are as competent as any national institution can be. The supposed necessity for a national institution to perform the double function of public agent and regulator of the currency, being unsustained upon any principles of sound reasoning or constitutional construction, can constitute no solid objection to the proposed employment of other banks, or to regulations by law, "prescribing the mode of selection, the securities to be taken, and the manner and terms on which they are to be employed."

Before I notice the particular provisions of this bill, I beg leave, very briefly, to call the attention of the House to the state of things as they existed about the period when the old Bank of the United States went out of existence, and the state of things as they now exist. I beg to compare the state of public feeling and opinion about the period of 1810, pending the application to Congress of the old bank for a renewal of its charter, and the state of public feeling and opinion as now exhibited to us. The analogies, in more respects than one, will be found to be strong and striking. Then, as now, loud complaints were heard of the impending ruin, desolation, and public as well as private distress, which awaited the refusal of Congress to grant a renewal of the charter. If, sir, the memorials from chambers of commerce, ensurance

companies, State banks, and numerous citizens of your cities, at that time presented to Congress for a renewal of the old bank charter, were now produced and read from the Clerk's table, without any notice to the House of the date they bore, every individual present would have no doubt left on his mind that they were prepared and signed at Philadelphia, or elsewhere, yesterday, or last week, and had immediate relation to the distress now falsely said to have been produced by the recent removal of the deposites. The very arguments and complaints which were urged upon Congress then, as reasons why the old bank charter should be renewed, are urged upon us now as reasons why the present bank charter should be renewed, with the single exception that nothing was said then, as now, in relation to the public deposites. That the House may see the more clearly these striking resemblances between that period and this, I beg to read from a few of the memorials presented to Congress during the years 1809, '10, and '11, and which have remained on our files in one of the upper rooms of the Capitol, undisturbed and unexamined, for so many years. I read first from a memorial of the Chamber of Commerce of Philadelphia, in which, after stating that three-fourths of the capital stock of the bank was held by foreigners, the memorialists say:

"From the collection of the bonds for duties at the Bank of the United States, it unavoidably results that there is in that bank a great and constant accumulation of the paper of the other banks. This cause, combined with its weight of capital and extensive deposites, has given to the Bank of the United States an obvious importance in the connexion with other banks, which now renders its continuance almost indispensable to their safety; for your memorialists are without fear of contradiction, when they assert that, if the Bank of the United States be dissolved, an effect extensively and deeply injurious will be felt by all the other banking institutions within the range of its operations. In their apprehension, it is impossible that the Bank of the United States should exact payment from its debtors, and close its concerns, without its producing all the evils of prostrated credit and general delinquency." "To predict with certainty the extent of the evils which must inevitably flow from a dissolution of the bank, is beyond the power of your memorialists. They conceive that among these evils, however, may certainly be placed an extensive and aggravating loss by all persons interested in the banking associations of the country; a destructive disregard of punctuality in the performance of contracts, both towards the Government and the citizen; a wide-spreading bankruptcy, which will be felt by the commercial, manufacturing, and agricultural interests; a diffidence of the stability of Government, both at home and abroad, and a prostration of their confidence and credit, which have so happily and successfully administered to the enterprise and prosperity of the country."

I read next from a memorial of citizens from Philadelphia, presented to Congress on the 31st January, 1811: "That it is with increasing solicitude and the deepest concern that your memorialists reiterate their petition to Congress, for renewal of the charter of the Bank of the United States. With the extreme of anxiety have they awaited the decision of this most important question, and with real distress do they witness the ascendency of sentiments opposed to the continuance of the bank. Before a final determination shall, however, exclude all hope, they deem it their indispensable duty to lay before you a view of the distress which has already commenced, and of the wide-spreading ruin which has been but faintly anticipated, but the certainty of which is now plain to every eye, and to accompany this view with their renewed and urgent entreaties that this overwhelming mischief may yet be staid. It has become too plain to admit of doubt with the most incredulous, that confidence and credit are intimately and essentially connected with the continuance of the Bank of the United States, and that, if they are prostrated by the dissolution of that institution, the country must experience, to its lasting reproach, and perhaps its incurable injury, a general disregard of pecuniary engagements. Your memorialists, therefore, consider it as a fact no longer doubtful or disputable, that if the bank be dissolved at the expiration of its present charter, and, in truth, unless the public confidence be speedily restored, universal distress and incalculable loss must and will prevail. From the pressing and peculiar exigencies of the time, brought about by a fear of the dissolution of the bank, and from a perfect persuasion of the near approach of all the evils which have been anticipated, your memorialists have deemed themselves bound to make this appeal to your wisdom, and to present it by a deputation of their fellow-citizens. This deputation, intimately acquainted with the situation, sentiments, and feelings of your memorialists, they respectfully request may be heard by counsel on this momentous subject. Finally, it is the earnest pressing prayer of your memorialists, that effectual means may be immediately adopted to restore public confidence, by a renewal of the charter of the Bank of the United States, for a term which shall assure its duration; or, if that be not granted, that the public suffering may be alleviated by a continuance of the institution for a period which will permit it gradually to close its concerns." So that, it seems, committees bearing to the Capitol memorials representing the ruin and distress of the commercial cities at that time, as now, waited upon Congress with their complaints, and yet at that time the removal of the deposites constituted no part of the cause assigned for the distress complained of.

I find next a memorial from the Bank of New York, presented to Congress January 8th, 1811, in which it is represented that "the demands already made upon State banks have pressed them to their utmost limits; and from these causes they will be utterly unable to supply, in any considerable degree, that aid which has hitherto been afforded by the Bank of the United States. The consequences must be very great individual distress and heavy losses, as well to the revenue as to all the moneyed institutions. The renewal of the charter of the Bank of the United States would render such reductions unnecessary; and, by relieving the apprehensions now excited through almost every class of the community, restore that confidence so essential to the system of public credit under which the United States have so much prospered."

I will trouble the House by reading a single other extract from one of these memorials; it is from the memorial of the Baltimore Insurance Company, dated 16th January, 1811.

"A refusal to renew the charter of that institution, in the present inauspicious and deplorable state of our commerce," your memorialists humbly apprehend, and they feel it their duty explicitly to state, as their unqualified opinion, that it will have the effect of producing a general destruction of commercial credit and confidence. But what, perhaps, in a national point of view, is still more to be dreaded, because its calamitous effects would not be confined to your cities, but would make its ravages into every quarter of the country, is the imminent jeopardy into which the whole banking system of the nation would be placed. The winding up of the Bank of the United States necessarily compels the drawing in of the funds of the State banks to such a degree as will produce innumerable failures, and involve your memorialists in irreparable losses."

I might read from other memorials to which I have turned, upon the same subject, and presented to Congress about the same time, until I would fatigue the patience of the House. They are all of the same tone and tenor.

Against all this complaint of ruin, of prostration of credit, and of commercial and pecuniary distress, I have some evidences, collected from the documents of that period, now on our files, to which I wish also to call the attention of the House. And the first is a report submitted by Mr. Clay to the Senate of the United States on the 2d of March, 1811, as follows, viz: "Your committee are happy to say that they learn, from a satisfactory source, that the apprehensions which were indulged as to the distress resulting from a non-renewal of the charter, are far from being realized in Philadelphia, to which their information has been confined. It was long since obvious that the vacuum in the circulation of the country, which was to be produced by the withdrawal of the paper of the Bank of the United States, would be filled by paper issuing from other banks. This operation is now actually going on; the paper of the Bank of the United States is rapidly returning, and that of other banks is taking its place. Their ability to enlarge their accommodations is proportionately enhanced; and when it shall be further increased by a removal into their vaults of those deposites which are in possession of the Bank of the United States, the injurious effects of a dissolution of the corporation will be found to consist in an accelerated disclosure of the actual condition of those who have been supported by the credit of others, but whose insolvent or tottering situation, known to the bank, has been concealed from the public at large."

We have heard much, during the present winter, of a declaration imputed to the President, "that those who trade on borrowed capital ought to break." The same opinion, it seems, was, in substance, expressed by this committee of the Senate in 1811. The same committee were then further of opinion, as I am now, that the representations of distress were greatly exaggerated, if not unfounded; that the vacuum produced by the withdrawal of the paper of the Bank of the United States would be supplied by the paper of other banks; and that State banks were safe and suitable depositories of the public money.

I find, also, on our files, a memorial from the patriotic citizens of Pittsburg, from which I will trouble the House by reading a few extracts:

"After the Bank of the United States had enjoyed twenty years of prosperity, had divided, in that term, four million over six per centum, and had held in bondage thousands of our citizens, who dared not to act according to their consciences, from fear of offending the British stockholders and federal directors, we had hoped that they would have quietly closed their concerns, and waited for another turn of fortune, till other classes of citizens, of at least equal merit, had each shared their four millions; but we have seen, with indignation, a studied delay in the collections of that bank, indicating a determination to gain a renewal under stress of weather; a studied pressure on individuals, and on State banks, in order to gain auxiliaries; and a studied memorial, containing, in smooth language, the most daring insults on the dignity and independence of a free people."

* * * * *

"The memorial next proceeds to associate the bank with the Government, claiming to be a necessary and indivisible part of it, showing the insufficiency of State banks to answer the dignified purposes of their institution; and, after repeating, for the tenth time, the awful calamities awaiting their dissolution, they commend the hard case of moneyed aristocracies, and of rich widows and orphans, interested in their stock, to the wisdom and justice of the Legislature. They again hold up the awful terrors of 'a general derangement of credit,' and pray for a renewal of their charter."

* * * *

"Now, may it please the Congress, this bank memorial is for a grant, worth to the stockholders six millions, and to federalism and British influence sixty millions; and if the memorial contained the truth, there could have been no occasion of presenting it; but you, in your wisdom and superior intelligence, would have humbly petitioned David Lenox, president, and the directors and stockholders of the United States Bank, to please to accept a renewal of their charter for eternity, or such shorter term as their honors should appoint." * * *

"We regard the repeated alarms in the memorial as not only groundless, but as a kind of threatening, ill suited to your dignity and our independence." * *

"The bank memorial is a public declaration that the Government and people of the United States are held in duress by the memorialists, and that the continuance of our independence rests on their willingness to continue their bank operations. It contains an insulting history of favors to us, greater than their royal master ever urged upon the colonies. It declares that in the management of the power of the purse, for twenty years, it has done every thing for us, and has rendered itself necessary to our future existence. Its silent language is, 'Though we fail to conquer you by the sword, we hold you suspended by the purse strings. We demand your gratitude for such use of our funds as we have condescended to permit you to pay for; and now, if the power is to be withdrawn from us, all your establishments of commerce, finance, agriculture, and the arts, will fall with us.'

"This language is not from a band of patriots who undertook to aid the nation in the first struggles for self-government, but of men who, by subtlety and intercession, obtained a charter, and who have become masters of the head-waters of corruption, through the ill-placed bounty of the first Congress. Their delay to close their affairs according to law was not for public good, but in preparation for a sudden onset upon a short session of your honorable body. Hence their well-timed subscriptions to some republican presses. Hence the silence of federal presses, lest discussion should awake in your constituents the spirit of 1776. Hence the artificial depression of stock, not in market, and the petitions from interested companies and individuals crowding upon you. Hence the thronging of your avenues, and the artful sounding of every Senator and member. Hence the intimations that a million and a quarter should be placed in your Treasury, as a consideration for the ruin of your constituents; and hence the shameless assertion, that our President, who gained his elevation by his able opposition to the charter of the bank, and other ruinous measures, is now in favor of renewal."

"The bank memorial, with its accompaniments, is an alarming commentary on the original charter. The actual depreciation of our silver and gold, by the United States Bank, is not to be compared with the attempts to depreciate the sterling virtue and republican integrity of our people."

All the representations of ruin and impending distress, of the inability of State banks to perform the offices of agents of Government, of derangement of currency, and of the necessity of a national regulator of currency, made by the old bank and its friends, did not convince the Congress of 1810, '11, that it was proper to grant a recharter. In that most important crisis, the Legislature of the Commonwealth of Pennsylvania came to the rescue of the constitution. Resolutions were there adopted, and are now on our files, instructing her Senators and requesting her Representatives in Congrrss "to use every exertion in their power to prevent the charter of the Bank of the United States from being renewed, or any other bank from being chartered by Congress, designed to have operation within the jurisdiction of any State," &c.

Virginia, too, gave similar instructions to her Senators and Representatives in Congress, "to use their best ef-

forts in opposing, by every means in their power, the renewal of the charter of the Bank of the United States." The resolutions of Pennsylvania were presented to Congress on the 22d, and those of Virginia on the 26th of January, 1811. Congress refused to renew the charter; the old bank expired with the termination of its charter, and none of the evil consequences which had been anticipated, and were so confidently predicted by the bank and its friends, were found to follow. No distress, no ruin, no prostration of credit or of commerce, were found to exist. This bank expired, too, with its business extended up to its maximum point almost to the last hour of its existence. Even the minority of the Committee of Ways and Means, in their counter report, at the present session, admit that that bank expired "with a circulation then flowing through the country greater than the maximum of its amount at any previous time, with the usual extent of deposites, public and private, in its vaults; with nearly all its canvass of every kind spread to the last hour of its voyage, and which the just and amicable relations subsisting between the administration and the bank made it safe to spread for the good of the country."

If this be so, why may not the same thing happen upon the termination of the charter of the present bank? There can be no reason why it should not go quietly out of existence with the termination of its charter, without producing any violent shock either upon the currency or the commercial prosperity of the country, unless it be the will of the bank, unnecessarily and wantonly, to use its immense power to inflict it, to induce thereby a general belief of the necessity of its continuance, and, if possible, procure a recharter. Should this be the determination of its managers, it will be better to bear the temporary inconvenience which it may produce, rather than fasten upon the country a lasting evil.

The House has decided, by such a majority (fifty-three) as renders it morally certain that that decision is not likely to be reversed, that the present bank ought not to be rechartered. They have decided that the present bank is not regarded now, as the old bank was not regarded in 1810, '11, either as an indispensable Government agent, or as a regulator of currency.

No new bank has been recommended, for most obvious reasons: 1st. Because, by the terms of the present bank charter, no other bank could be created by Congress, to go into effect before the 4th of March, 1836, when that charter expires. 2d. No new bank could furnish a remedy for the commercial distress and embarrassment, real or pretended, complained of; because that distress or embarrassment, whether real or imaginary, must have run its course and passed away before any new bank could commence operations; and, thirdly and mainly, because any bank, organized upon the principles of the present bank, would be subject to the same objections that the present bank is; would probably be owned by the same persons, and be subject to the same abuses. I doubt whether it is in the power of statutory provisions to provide chains strong enough to confine so tremendous a power, if it shall be disposed to abuse it. The objection, therefore, to the employment of State banks, that a national institution is necessary, either as a regulator of currency or a Government agent, cannot, upon any sound principles, be maintained.

The State banks, then, are to be employed, either under our law as it exists, or under the law as Congress may modify it. The bill before us proposes modifications, limiting and defining, with more precision than has heretofore been done, the executive discretion and power. It is tendered to the House, and especially to those who have raised the cry of a union in the President of the sword and the purse, when in fact he possesses neither. The present Executive does not desire, and never has desired, to retain any discretionary power in the execution of the laws, which, from its nature, is susceptible of being defined by law. The Executive, and his friends upon this floor who sustain him in the recent executive measure of the removal of the deposites, desire to see him, and not only him, but his successors in the executive office, relieved from the responsibility of exercising discretionary power in relation to the safe-keeping, management, and disbursement of the public money, as far as, by legislative provisions, it can be done. The bill which has been presented contains provisions suited, in the opinion of the committee who prepared and brought it forward, to attain this end. I have invited gentlemen who may think its provisions inadequate, or who may suppose that too much power is still left in the hands of the Executive, to come forward with their modifications, still further limiting and confining his power. If they will neither accept this bill, nor propose to amend and make it more perfect, the conclusion must be, that they prefer the law as it is to any new legislative provision. If they do not co-operate with us in perfecting and passing this bill, the conclusion will be irresistible that the charge which has been made against the President, of a desire to seize upon powers which do not belong to him, was designed to produce an erroneous impression upon the public mind, and is wholly unfounded in fact; that they prefer the existing laws to any amendments which can be made; and, in a word, that the real purpose to be effected by all the violent and impassioned appeals which have been made, charging him with usurpation, was to operate upon the public, with a view to procure a continuance of the present odious bank monopoly.

I shall briefly call the attention of the House to the details of this bill. The bill provides, 1st, "the mode of selection;" 2d, "the securities proper to be taken;" and, 3d, "the manner and terms on which they are to be employed." By the existing law, the Secretary of the Treasury possesses the power to select the banks of deposite, to prescribe the terms and conditions of their employment, and to discontinue them at pleasure. The bill continues the power of making the selections in the first instance to the Secretary of the Treasury, upon certain terms and conditions prescribed, but when once selected, he is, by the 9th section, expressly prohibited from discontinuing any such bank as a depository, "so long as the said bank shall continue to do and perform the several duties and services required to be performed" by the bill, and "so long as said bank shall continue to be in all respects a safe depository of the public money." It is only for failure or refusal, on the part of any bank of deposite to perform the duties and services prescribed and stipulated to be performed, or that it shall have so extended or conducted its business as to render it an unsafe depository, that the public moneys which it may hold on deposite are to be removed. And if Congress be in session, it cannot even then be discontinued without the "approbation of Congress previously obtained." In the recess of Congress, the Secretary of the Treasury is authorized to remove the public moneys for the causes only already stated, and in that case is required to "report to Congress, at the commencement of the next session, the facts and reasons which have induced such discontinuance." By another provision in the bill, the power is expressly reserved to Congress at any time to pass a "law for the removal of the public money from any of the said banks." The power reserved to Congress to remove is absolute. Congress may by law order a discontinuance of any of the selected banks as depositories, at its mere will. The Secretary, by the provisions of the bill, possesses no such power. He can only remove the public money from their keeping for the causes specified in the bill, and which have been already stated. So long, there-

fore, as any bank selected as a depository shall perform the stipulations of its contract, and shall remain in a safe condition, it will hold the public money on deposite, not at the pleasure of the Executive, but independent of him. Neither the original selection, nor the continued employment of these banks by the Treasury, under such circumstances as the bill provides, can by possibility be used as a Government patronage, to control or in any degree influence them in their operations.

The power of making the original selections was continued in the head of the Treasury Department—first, because the general management of the finances, and the safe-keeping and disbursement of the public money, according to law, appropriately belongs to that officer, and have always been confided to him; and, secondly, because the selections could be made by him as conveniently, and with as much safety to the public, as regards the security of public money, as by any other officer. It is true that Congress might, by law, designate the banks in which the public money shall be kept. And the committee who prepared this bill, in their report, state that "there could be no objection to that mode, provided it be deemed practicable to make the selections in such manner as to protect and preserve the public funds to be deposited therein." It was believed, however, that Congress, from its numbers and organization, could not so conveniently ascertain the condition and safety of the banks to be selected as the principal officer of the Government. Another suggestion has been made, and that is, that all the banks at the point or place where the revenue may be received, and which may be found to be in a safe condition, shall be employed in proportion to their respective capitals. The objection to this plan is, that it would too much disperse the public funds, produce unnecessary complication in the accounts of the Treasury, and some inconvenience in making disbursements, especially of large amounts, for the public service. The plan adopted by the bill continues to the Secretary of the Treasury the power of making the selections, with the restrictions over his power of discontinuance already stated. He is to select "such of the banks, incorporated by the several States, as may be located at or convenient to the points or places at which the revenues may be collected;" and at the principal points of collection, in the principal cities, where large amounts are received, he is required to select at least two banks, provided that they be, "in his opinion, safe depositories of the public money, and shall be willing to undertake to do and perform the several duties and services, and to conform to the several conditions prescribed by the bill."

2d. The bill next provides "the securities proper to be taken." Before any bank shall be selected, the third section requires that the Secretary shall be furnished with a full statement of its condition and business, that he may be enabled to judge of its safety. Being first satisfied from an inspection of such a statement, and from other sources of information within his reach, that a given bank would be a safe depository, and would be willing to receive the public money on deposite, upon the terms of the bill, he is authorized to make the selection; and by the 8th section he is authorized to enter into contracts with the selected banks. With a view to the continued safety of the public funds in any of the selected banks, he is authorized to require them, as one of the conditions upon which they are to hold the public deposites, that they shall furnish from time to time, as often as required, not exceeding once a week, such statements of their condition and business, and shall also agree to permit an inspection of the general accounts in the books of the bank, as shall relate to such statements. And as an additional security to the public, the Secretary is by the 7th section authorized, whenever in his judgment the same shall be necessary, to take additional or collateral security for the safe-keeping of the public moneys deposited in any of the selected banks; and for the faithful performance of the duties and services which any such bank may by its contract have stipulated to perform.

3d. The bill provides the "manner and terms" on which the banks selected are to be employed.

They are, 1st—To credit the Treasury for all deposites as specie.

2d. To pay all checks, warrants, or drafts, drawn on such deposites, in specie, if required by the holder thereof.

3d. To pay its notes and bills in specie, on demand.

4th. To furnish the Government the necessary facilities for transferring the public funds from place to place within the United States and the Territories thereof, and for distributing the same in the payment of the public creditors, without charging commissions or claiming allowance on account of difference of exchange.

5th. That no bank selected as a depository of the public money, shall, after the 3d of March, 1836, issue or use any note or bill of less denomination than five dollars.

These several conditions and terms of employment are at once self-evident, and will require that I should add but a word or two by way of explanation. The general scope and tenor is, to make the public money, wherever deposited, equal to specie, and to secure the transmission of funds from place to place, where money may be required to be disbursed, free of expense to the Government, and by making it the interest of the deposite banks in consideration of the use of the deposites, when not called for for the public service, to induce them, after a given future day, to cease issuing small notes, and thereby gradually introduce in their stead a metallic circulation. At a still more distant day it may be proper to extend the latter condition to banks issuing notes or bills of a less denomination than tens or twenties; but it was not deemed necessary to embrace such a provision in this bill. If it be deemed expedient, Congress may hereafter extend the law (should the bill pass) in this respect.

With a view to attain the same end, the bill contains a further provision, that, after the 3d of March, 1836, the notes or bills of no bank shall be received in payment of debts due to the United States, which shall, after that date, issue any note or bill of less denomination than five dollars. In regard to the banks of deposite, it is imposed, as a condition upon which they shall be employed, that they shall, after a given future day, cease to issue or use small notes; and in regard to all specie-paying banks, the deposite banks included, it is made a condition upon which the United States will agree to receive their notes or bills in payment of public dues. The latter provision is but a modification of the joint resolution of Congress of the 30th of April, 1816, under which the notes of solvent specie-paying banks are now received in payment to the United States. That resolution prohibits the collectors of the revenue from receiving any thing but the legal currency, (gold or silver coin,) the notes of the Bank of the United States, or the notes of such other banks as may redeem their notes in specie. This resolution of 1816, by prohibiting the receipt of the notes of any bank which does not redeem its bills in specie, makes it the interest of all banks which wish to obtain general credit and circulation for their notes, by having them received in payment of the revenue, to continue the payment of specie for their notes on demand; and so this provision in this bill is designed to make it the interest of all banks, which desire to obtain for their notes a like general circulation and credit, by having them received by the United States in payment of debts, to cease to issue small notes. This provision cannot be regarded as an attempt, on the part of Congress, to regulate the paper currency of the State banks—for the constitution-

al power to do this has already been denied—but as a declaration on the part of Congress of what kind of money shall be received in payment of public dues. This power Congress have a clear right to exercise; and if, as a consequence flowing from such declaration, the State banks shall voluntarily co-operate, and, for example, resume specie payment, as most of them did shortly after the resolution of 1816, or as they may, should this bill become a law, cease to issue small notes after March, 1836, in order that their other notes, of other denominations, may be received by the United States—such a consequence would be a legitimate one: and yet, in another case, would Congress have interfered to regulate the paper currency which they issue. If all the State banks, after the resolution of 1816, had suspended specie payment, as they might, the revenue would have been collected in coin. They chose, however, voluntarily, to pay specie for their notes; and, as they did so, the United States permitted the notes of many of them to be received. And so, if this bill shall pass, and the State banks shall, after the 3d March, 1836, voluntarily continue to issue small notes, their notes of other denominations will not be permitted to be received by the United States; but if they choose to cease the issuing of such notes, then their other notes may be received in payment. It is wholly voluntary on the part of the State banks. They may or may not continue to pay specie; they may or may not cease to issue small notes. There is no attempt to check or control them by Congress. If they voluntarily cease to issue small notes after the day mentioned in the bill, and it is believed most of them, and especially those of large capitals will, it is not doubted that the currency they circulate will be in a sounder state, and the country gradually furnished with an increased metallic circulation, to fill the vacuum occasioned by the withdrawal from circulation of the small notes at present issued by them.

An amendment of the existing laws, regulating the relative value of the gold and silver coins of the United States, and the value of foreign coins, constitutes an important part of the scheme of currency of the Secretary of the Treasury, as communicated in his letter to the Committee of Ways and Means—and which accompanies their report with this bill. But as the subject of regulating the value of the coins is embraced in other bills upon your table, I will reserve any thing further which I may have to say upon the subject of the currency, (if, indeed, I shall say any thing,) until those bills come up for consideration.

The bill contains another provision: that the Secretary shall annually report to Congress the banks in the employment of the Treasury—and that, until other selections are made by him, the banks at present holding the deposites shall continue to be the depositories. It will be at all times in the power of Congress, by calls made upon the Secretary, to know the amount of public money in each, and the state and condition of each, as regards its safety.

I have now gone through with the substantial details of this bill. Should it pass, I believe its provisions such as fully to guard and secure the public money deposited and to be deposited in the State banks.

I must ask the indulgence of the House before I conclude, to be permitted very briefly to notice what I have heretofore been precluded the opportunity of noticing. When the report of the Committee of Ways and Means upon the subject of the removal of the deposites, and the employment of the State banks, concluding with the resolution which it is the object of this bill to carry into effect, was before the House, I reluctantly yielded the very strong desire which I then felt to meet in argument, and refute, if I could, much of what was then urged against the principles and doctrines of that report. The length to which the discussions had extended, (having occupied almost our exclusive attention for three months,) the impatience of the public mind to have the question which so much agitated the country settled, compelled me, from a sense of the paramount importance of having a speedy decision by this House, to forego a reply to any thing which was then said. I am not now about to go into the argument of that report—nor do I propose now to notice much of what, at that time, had an opportunity been afforded, I desired to notice. The time has passed; and it is unnecessary, because the report has since been sustained by the deliberate judgment of the House. But though I do not propose, and will not, at this late period of the session, permit myself to be drawn into the general argument, I do ask the indulgence of the House whilst I notice the character which marked the discussion on the part of those opposed to the principles of the report, as well as one or two most extraordinary grounds upon which it was sought to reverse them.

The report discussed temperately the various questions connected with the removal of the deposites. How the views it presented were met by those in opposition, it becomes my duty now to notice. Were they met, and attempted to be refuted, by bold and manly argument? Were the positions laid down by your committee encountered, and attempted to be overturned by reason? No! Instead of argument, we had ebullitions of feeling and of passion. Instead of reasoning, we heard unmeasured denunciations and bitter invectives against the Chief Executive Magistrate. Instead of calm discussion, we heard repeated here all the violence of party strife, gleaned from partisan newspapers; and upon grounds like these the House were called upon to reverse the report of your committee.

The minority of the Committee of Ways and Means, in the counter report which they presented, set out by affirming that "the removal of the public deposites from the Bank of the United States is an act upon which the judgment of the country is now irrevocably passed." What this public judgment is they have not stated, but left to be inferred. In the same paragraph they assume that "the act of removal was wholly indefensible, without color of probable cause, a violation of the bank charter, an inroad upon the property and security of the citizens, and upon the rights of the legislative department." These bold assumptions are taken for granted; no argument is adduced to prove or sustain them—and upon premises thus erroneously assumed, the minority proceed to give their opinion. In the paragraph next succeeding, they say that "the power of removing the public deposites is granted or reserved by the 16th section of the bank charter, to be exercised by the Secretary of the Treasury," &c. If it was a power either "granted or reserved," "to be exercised by the Secretary of the Treasury," (and the minority concede that it is the one or the other,) it is difficult to conceive how its exercise, by the Secretary of the Treasury, can be either "a violation of the bank charter," or "an inroad upon the property or security of the citizen," or upon "the rights of the Legislature." But why is this power stated in the alternative? Why is it said to be a power "granted or reserved?" It must be the one or the other; and if the one, it cannot be the other. Did the minority doubt which it was? If it was a power granted by the bank charter, it was not a power reserved; and if it was reserved, it was not a new power thus for the first time granted to the Secretary, but was a recognition of a pre-existing power. The majority of the committee had, in their report, maintained that it was not a new power, but a reservation of the old power possessed and exercised by the head of the Treasury Department, since the passage of the act of 1789, establishing the Treasury Department. If this was an error, why was it not shown to be such by the minority?

The next general proposition stated by the minority, is, that "absolute and unconditional power does not reside in any department of Government," and that the power of any department is subject to the restraints and limitations prescribed by the constitution. As a general proposition, this is certainly true; but I maintain that it is equally true that each of the three departments, within their respective constitutional spheres of action, are supreme, and that each, in the performance of the duties assigned to it by the constitution, is independent of the others. The Executive department cannot control the Legislative will in the exercise of their constitutional powers. Congress cannot control the Executive department in the exercise of its constitutional duties. Nor can either, or both, control the Judiciary in the discharge of the constitutional duties assigned to that department. The argument now urged by the minority, and in debate upon this floor, would uphold the supremacy of the Legislative power over each of the other departments, and if it prevail, both the Executive and the Judiciary are subordinate to the Legislative, and become the mere agents of Congress. If all power concentrates in Congress, then the barriers which separate the three great departments of Government in our system, and assign to each its respective duties and functions, are broken down.

It has been but a few years since we heard, from the same quarter, loud complaints against the despotism and irresponsibility of an interested, heartless, unfeeling, and tyrannical majority in Congress. Upon the tariff question, the distinguished gentleman from South Carolina [Mr. McDuffie] was bold to proclaim that a majority of Congress was the worst of despots; and we were told that that majority was the worst of despots, because it was an interested and irresponsible majority; and revolution was even threatened, to resist the strides of this many-headed despot—the majority in Congress—which was represented as desolating the whole Southern country, by drawing taxes from that quarter, and placing them in their own pockets. That majority was denounced as plunderers, highway robbers, and freebooters; they were boldly charged with usurping powers that did not belong to them. The whole system of internal improvement has been denounced by other gentlemen, who now maintain the supremacy of the powers of Congress, as an unconstitutional usurpation of power on the part of Congress. At that time, the veto power of the President was relied upon to check its progress. It was looked to as the conservative principle whereby the constitution was to be preserved. At that time the Executive was regarded as a co-ordinate branch of the Government, independent of Congress, and not as the mere agent of Congress, to perform his duties in subordination to their will. Upon the Indian question, too, the present Executive was regarded as independent of Congress, and received the high approbation of those who now denounce him as a tyrant and a usurper for standing by the constitutional rights of the States, and resisting the encroachments of the Judiciary as well as the Legislature. He was not then regarded as the mere agent of Congress, appointed to perform his duties in subordination to their will.

In the course of the debate which occurred upon the report of the committee, a gentleman from Georgia [Mr. Wilde] stated, that the Committee of Ways and Means had been daring enough to assert, in their report, that the power of designating the places of deposite is an executive power. Doubtless, in the estimation of the gentleman and of all those who pay their devotions at the shrine of the odious monopoly which he so warmly and unhesitatingly sustains, it is an act of daring hardihood to question its omnipotence and immaculate purity. But the gentleman may learn, if he has not already done so, that the Committee of Ways and Means dare to discharge the high duty assigned them. And, though the temerity of the act may astonish those who wear the golden livery of the bank—who believe the bank, like the King under the theory of the British constitution, can do no wrong, and who look upon this aristocracy of money as the chief, if not the sole end of government—yet the committee of which I have the honor to be a member have dared to express their opinions fearlessly, and at the hazard of falling under the anathemas of a great money power, which even seeks to control the destinies of the republic. The committee have dared do this—and I dare reaffirm here what they have done.

The committee have affirmed, and I here reaffirm, that, from the origin of the Government, the power of designating the places of deposite of the public money has been conferred by law on the Executive department. The power has been exercised, and without objection, until now, by every Secretary of the Treasury. There is an unbroken chain of construction and practice under the law; and if any thing earthly can be settled by precedent, and the long and uniform acquiescence of every department of the Government, it is the exercise of this very power. To break the force of this unbroken chain of precedents and usage, various subterfuges and evasions in argument had been resorted to, to evade the direct question. The gentleman, in this part of his speech, felt the embarrassment in which he was placed by the fact that the same power which has been exercised by the present Secretary of the Treasury was exercised by Mr. Secretary Crawford, during his administration of the Treasury Department, and that, too, since the enactment of the present bank charter; and he attempted to escape from it by drawing a distinction which does not in fact exist. He stated that Mr. Crawford acted under the authority of the joint resolution of 1816. Now, it so happens that the resolution of 1816 is still in force; still stands on the statute book unrepealed; and if it was authority for Mr. Crawford, it must be equally authority for Mr. Taney. The gentleman next puts the authority of Mr. Crawford to remove the deposites from the Bank of the United States and place them in the State banks, upon the ground that the bank assented. But the assent of the bank could not confer a power which the law did not confer. The bank is not a source of power. The truth is, there is no distinction in principle between the cases; and the truth is, further, that this power of selecting the places of deposite has been exercised by every Secretary of the Treasury. But time does not permit me to pursue the gentleman through his speech, and expose numerous other errors of argument equally palpable. One or two other remarks, in which the gentleman was pleased to indulge, (not, sir, in the way of argument, for of argument they contain nothing,) I must notice.

In speaking of Mr. Crawford, the gentleman talked about "a long-eared tribe, who once lifted their heels at his prostrate venerable form, and now seek to frighten their masters under cover of his skin." The gentleman protested that "it cannot be necessary for me to disclaim any allusion to the chairman of the Committee of Ways and Means, or to the President of the United States; every body knows I do not mean them. Neither do I mean the Secretary of the Treasury." Who, then, did the gentleman mean? The gentleman proceeded further to say that "idolatry and adulation have made a divinity of the Executive;" and he denounced those who sustain this Executive measure as servile instruments and tools; that there was nothing which tyranny could perform, but servility would applaud; and, in a strain of sarcasm, added that tools are as "necessary to every political cabinet-maker, as they are to the manufacturer of wooden Secretaries;" and he asks if we are merely to register the decrees of the President, as signed by his Secretary, and countersigned by the chairman of the Committee of Ways and

Means?" Still he protests that he means nobody. Are we to presume it was a mere rhetorical flourish? Sir, the gentleman should have remembered that there might be tools of more masters than one, and that the dominion of money requires more absolute obedience to its mandates than a despotism of any other kind. He should remember that the bank might have tools, who never thought her wrong in any thing she did.

The gentleman from Georgia, too, had spoken of his disinterested support of Mr. Crawford; that he had not sought or expected office or personal favor at his hands, and leaves it to be inferred that those who support the President in this measure do not occupy a similar position. Sir, I may be permitted to say, without disturbing the sensibility of any gentleman, that in the course I have taken on this, as on all other occasions since I have had the honor of a seat here, I, too, have not looked to office or personal favor from any quarter. I am proud to know that I have never, during my public service, either directly or indirectly, by myself or through others, sought either office or preferment from any human power, except from my generous constituents, who have so long honored me with a seat here. The insinuation, if intended to be applied to me, is repelled. I have paid court to no power, or any man in power. In opposing the longer continuance of the Bank of the United States, and in sustaining the Executive upon this great question, I am but advocating principles and opinions early adopted and steadily maintained from the commencement of my public service.

Studied efforts have been made, in the whole course of the debates which have taken place on this subject, to alarm the country, by inducing the belief that the President was disposed to seize upon powers not conferred upon him, and to overturn the Government itself. "It is the first time," says the gentleman from Georgia, "in my memory, at least, that the people have passed by Congress to invoke the compassion of the President. We have made one step towards a monarchy, when petitions are not addressed to the Parliament but to the throne."

He says, in substance, if the Executive can remove the deposites from the Bank of the United States, we may as well vote ourselves useless, and ask for a Lord Protector. And in another part of his speech exclaims: "The example of Charles encouraged the audacity of Cromwell, as the example of Cromwell is now held up to the imitation of the President." And, to cap the climax, another gentleman [Mr. PINCKNEY] exclaimed: "Either the deposites must be restored or revolution is at hand." Is this the fiat which has gone forth from the moneyed autocrat? Is the withdrawal of a few millions of public money from the bank, to which the bank had no title, boldly proclaimed to be sufficient cause for civil war and revolution? Sir, I regret that gentlemen thought proper to indulge in these remarks. I regret it, because they had nothing to do with the question before us, and, so far as they were designed to alarm the country, they have not the slightest foundation in point of fact. Gentlemen have wholly deceived themselves, if they suppose that they can draw the public mind off from the real question at issue, by unfounded and absurd allegations against the President, that he designs to invest himself with absolute power, and seeks to destroy the liberties of his country.

A word more in relation to the complaints uttered by the gentleman from Georgia, that the previous question had been ordered by the House, and debate checked, in a preliminary stage of this question, whereby he was precluded the opportunity at that time of addressing the House. The burden of the gentleman's complaint is that, in that preliminary debate, I had given a pledge "in the face of the House, that if the gentleman from Georgia would sit with him, in voting against adjournments until the debate could be concluded, no such coercive means would be used." He says he did vote against all adjournments of the House; and that yet the previous question was ordered a few days afterwards, and the debate cut off. No pledge given by me has been violated. What I said was not said to the gentleman from Georgia alone, but was an appeal made to the whole House, to continue their sessions each day to a late hour; and that if the House would sit with me, voting against adjournments, we might, as I hoped, terminate, without resorting to coercive means, a most protracted debate upon the mere question of reference of the letter of the Secretary of the Treasury to the Committee of Ways and Means. The reports of what I did say, in the daily papers of this city, will show that I state the fact correctly, as it was understood at tet time by the reporters. But the gentleman says he did vote against adjournments of the House. But may I ask him how many of the political party with which he acts voted with him?

Upon one occasion, when the yeas and nays happened to be recorded, I observed that but three of those opposed to the removal of the deposites, and who acted with the gentleman, voted with him against the adjournment of the House. A majority of the House continued to adjourn at an early hour, from day to day, until it became apparent that no question could ever be had, until the House exerted its power, and checked the debate. Was it unseasonably checked? The debate had continued with short intervals, from the 1st of December until the 18th of February, when the question was taken. It was on the 3d of February that I made the appeal to the House, which the gentleman has chosen to construe into a pledge on my part; and up to the 18th no vote had been taken. The gentleman said he does not "reflect on the decision of the House, or impugn the motives of the gentleman from Tennessee." But yet, he added, "when the President and his Secretary violated the public faith, they lent the sanction of their great names to the violation of any private pledge." Sir, no private pledge has been violated by me, and any insinuation intended to convey such an idea is repelled. The same gentleman, in the very same speech in which he complains so loudly of the application of the previous question, calls upon the majority to exert the power of the previous question upon the question pending, and upon which he was then speaking. The gentleman said: "Sir, in this House, the gentlemen who complain of our distressing speeches, have the power. Why do they not use it to relieve the country? They can put an end to our speeches whenever they choose." So that the majority are held responsible, if they do not check debate, and act upon the public business. And if they do check debate and act, the minority, with whom the gentleman acts, still utter loud complaints that they have done so.

I have to ask the pardon of the House for this digression from the immediate question before it. It is the first opportunity which has been afforded to notice any of the remarks of the gentleman from Georgia, some of which related personally to myself, and perhaps required, at my hands, the notice I have taken of them.

When Mr. POLK had concluded his speech,

Mr. FOSTER rose and asked the indulgence of the House while he stated briefly some of the reasons which determined him in the vote he should give on the bill under consideration. He had very much desired, at an earlier period, to have presented his views at large, on the great subject with which this bill was connected; but, in common with many other gentlemen, he had been cut off by that unsparing weapon, the previous question. Of this he should not now complain; he had no doubt that those by whom the former debates had been arrested had very good reasons for the course they pursued, particularly those who had been allowed a day or two to express their own opinions; and it was far from his intention

either to deny their rights, or question their liberality. But, as he had thus been deprived of the opportunity of justifying the votes he had been called on to give, he should avail himself of this occasion to do so. He should not, however, attempt to go into a general discussion of the subject, but confine himself to a few prominent points.

Mr. F. said he belonged to that small minority in the House who had been so frequently charged with inconsistency in maintaining the unconstitutionality of the bank charter, and yet advocating a restoration of the public deposites to the bank; a measure which, it is alleged, is directly calculated to effect a renewal of the charter of that institution.

Mr. F. begged leave to refer the House to the votes which he had heretofore given, as the best evidence of the sincerity of his opinions as to a recharter of the bank. Two years ago he had voted, in all its stages, against the bill providing for the recharter. He voted for the resolution reported by the Committee of Ways and Means, during the present session, declaring that the bank ought not to be rechartered; and he should give a similar vote whenever the same question was presented to him, so long as the constitution remained as it now is. He denied that Congress had the right to grant such a charter; and until the power was conferred by an amendment of the constitution, the policy or expediency of such an institution were questions into which he should not inquire. And Mr. F. would here remark that, if he could persuade himself that the decided majority who voted for the resolution declaring that the bank ought not to be chartered acted on the same considerations which influenced him, he should regard the decision as a great triumph of constitutional principle. But he would not deceive himself; he could not flatter himself with any such belief; he should not affect to enjoy such a triumph. What are the facts? Are there not members of this House now voting that the bank ought not to be rechartered, who, two years ago, voted for the bill renewing the charter? And can it be supposed that these gentlemen have any constitutional scruples as to the power of Congress over the subject? It is not long since the Legislature of one of the most important States of the Union, (Pennsylvania,) by an almost unanimous vote, declared that the bank ought to be rechartered; and now (Mr. F. hoped he should give no offence by this allusion) some of the members of that Legislature, who expressed that opinion, having been transferred to seats on this floor, vote that the bank ought not to be rechartered. Many other gentlemen, too, who readily gave the same vote, have no hesitation in conceding to Congress the power, and are decidedly in favor of such an institution. Mr. F. was therefore deprived of the high gratification which the vote on the resolution to which he had alluded was calculated to afford.

But we are told, said Mr. F., that, in order to be consistent in our opposition to the recharter of the bank, we should justify the removal, and oppose the restoration of the deposites; that to deprive the bank of the use of these deposites is the most effectual measure which can be adopted to prevent a renewal of the charter. Now, Mr. F. said, if he were passing down Pennsylvania avenue, and should meet a man who had just committed murder, he should say the offender ought to suffer death; but would that justify him in shooting him down? Far from it; we live in a land of laws, and the laws must prevail; at least, they ought to prevail; and even the guilty are entitled to a trial. If the bank has offended, or forfeited the benefits and privileges conferred on it, (and he would not say it had not,) it is certainly entitled to the rights secured to the vilest culprit; let it, therefore, be legally tried and condemned. Or, if it has certain rights guarantied to it by its charter, it ought to be protected in the enjoyment of those rights; it certainly can be no justification for a violation of them, that by that violation a renewal and extension of them may be prevented.

It has, however, been over and over again repeated to us that the question is not as to the propriety of removing the deposites, but as to their restoration; that the removal having been already effected, it only remained for Congress to determine whether the public money should be continued in the State banks, or returned to the United States Bank, which would use them so as to promote their favorite object, the renewal of its charter. This argument, Mr. F. said, did not originate in this House; it was as well understood by the prime authors of this policy before the removal as it is now; it was part of the scheme, and so apparent that it could not but be perceived. Have gentlemen forgotten an article which appeared in the Government paper in this city only a day or two before the commencement of the session, in which they were modestly instructed as to their duty, and plainly told that, although they might honestly differ with the Executive as to the policy of removing the deposites from the bank, that matter was now beyond their control, and the only question for them to consider was the restoration? Thus, those who were conscientiously opposed to a renewal of the bank charter were to be placed in a situation that they must support the administration in this measure, or incur the charge of inconsistency. Now, Mr. F. said, he had had no agency in contriving this dilemma, nor would he consent to be placed in it by the act of others. He advocated the restoration for the very same reasons that he disapproved the removal; and, in so doing, he felt satisfied there was nothing inconsistent with his avowed and continued opposition to a recharter of the bank. In fact, it so happened that his opinions on these points were founded on the same course of reasoning. He opposed the recharter, because, by the constitution, the great contract between the sovereign States of this Union, this Federal Government was prohibited from the exercise of powers not delegated to it; and there was no provision authorizing the incorporation of a bank; consequently, the exercise of this power was, in his (Mr. F.'s) opinion, a violation of the constitution. He opposed the removal and the withholding of the public deposites from the bank, because, by the charter, the contract between the Government and the bank, the public money was to be deposited in the bank during the continuance of its charter, removable under certain circumstances. Mr. F. conceived that, by the terms of this charter, the bank had a right to the custody of the deposites, on conditions with which it had faithfully complied; and that the withholding of the deposites is a plain violation of the contract contained in the charter.

The most plausible argument which Mr. F. had heard against the validity of this contract, thus made by the Government with the bank, had been urged, some time since, by his highly-esteemed friend and colleague, [Mr. Gilmer,] for whose opinions he entertained as much respect as for those of any other gentleman here or elsewhere. He could truly say that a difference in opinion with his colleague, on any subject, could not fail to occasion a distrust of his own; and, when he found that difference existing on this great question, it caused him to pause, and more carefully re-examine it; and the fact that he could not yield to opinions which were usually with him little less than authority, was the most decisive evidence of the deep and settled convictions of his own judgment.

The argument urged by his colleague, to which Mr. F. alluded, was this: that, by the constitution, the right to control the possession of the public money is vested in Congress, and that Congress cannot divest itself of this right by selling or transferring it to any individual or corporate body; and, therefore, that Congress could not have given to the bank a pledge that it should have the custody of the public money during the continuance of its charter.

The principle laid down by his colleague, as to the constitutional power of Congress over the public treasure, Mr. F. said, was certainly true; it was one, indeed, on which it would seem there could not be two opinions; yet it had been maintained, by very high authority, that, by the provision in the sixteenth section of the bank charter, making the deposites removable by the Secretary of the Treasury, Congress had tied its own hands; that it had given the Secretary unqualified power as to the removal; and that, until that power was exerted by him, Congress could, under no circumstances, direct the removal until the expiration of the charter. Mr. F. was highly gratified to hear this position so ably combated by his colleague; and, notwithstanding the high quarter from which it had been originally advanced, he believed it was now generally repudiated. What would be the consequences of establishing such a doctrine? Suppose the bank were in failing circumstances, or was squandering the public money, and the Secretary of the Treasury should refuse or fail to remove the deposites, (as, under such circumstances, he is unquestionably authorized and would be in duty bound to do,) are we to be told that Congress, the constitutional guardian of the public treasure, must sit quietly by and see the nation reduced to bankruptcy by the mismanagement and fraud of the bank and the Secretary? No. But it is said that for such conduct the Secretary would be liable to impeachment. And who, that ever witnessed the pomp and pageantry, nay, the solemn mockery, of a trial by impeachment, can have any confidence in its effectual restraint upon dishonesty? But even if these trials were calculated to excite more terror, if conviction and punishment were more certain, what safeguard would a mere liability to impeachment be, when months would be consumed in the trial, during which time the very mischief intended to be prevented would be accomplished? The Congress who framed the bank charter never could have been so unmindful of the great interests of the country, or of the rights and duties of the Legislative department of the Government, as to have surrendered its constitutional and supervisory control over the public treasury; it has not done so. Such, Mr. F. conceived, was not the fair construction of the statute; such surrender, as had been most conclusively shown by his colleague and must be admitted by all, Congress has not the power to make.

Mr. F. now proceeded to inquire whether, by the terms of the charter stipulating that the public money of United States should be deposited in the bank, there was a surrender or transfer of this constitutional control to the bank. He could not so consider it. This stipulation was nothing more than a part of the contract between the Government and the bank, that the money should remain in the bank, by which the bank would have the use of it until it was drawn out by appropriations made by Congress; and by these appropriations it might be drawn out as fast as deposited; nor had the bank a right to withhold it a single day after it was drawn for. What kind of control, then, is given to the bank over the public treasure? Mr. F. would assimilate the deposite thus made by the Government to that made by an individual. Does a merchant, by contracting with a bank that it shall have the use of his funds when he has not other employment for them, part with the power to control them? Surely not. It was nothing more than a loan for an uncertain and indefinite time.

In order, however, to test the force of the argument, let us suppose that the contract, which Mr. F. conceived was plainly to be inferred from the terms of the charter, was expressed in clear and unequivocal terms: suppose it had been laid down in plain language that, in consideration that the bank would safely keep, and promptly transfer, whenever and wherever required by the officers of the Government, the public money of the United States, it should have, during the existence of its charter, the custody and use of the money until wanted for the purposes of the Government. The bank itself claims nothing more than this; and certainly nothing more is implied in the terms of the charter. Now, Mr. F. asked whether such a contract amounted to a transfer or surrender by Congress of its control over the public money? So far from it, he conceived that it was by virtue of this very constitutional right of control that Congress could make the contract. What, he inquired, was proposed to be done by the bill now before us? Is it not, under certain conditions, to place the public money in the custody of the State banks? And will it be contended that in authorizing such contracts Congress is yielding its constitutional power over the public revenue? No such apprehension has been expressed. Where, then, was the difference? Under what clause of the constitution was the power derived to make such contracts with State banks, which would not equally authorize similar contracts with the United States Bank? None such could be pointed out. And if Congress had the right to contract with the State banks for the custody of the public money for twelve months or twelve days, it had the same right to make the same contract with the United States Bank for twenty years: the contract would be as obligatory upon the Government in the one case as in the other. He spoke now, of course, without reference to the constitutional power of Congress to incorporate the bank.

But (Mr. F. said) the argument which maintained that Congress could not make such a contract, because it thereby divested itself of power conferred on it by the constitution, proved too much. A single instance would show it. By the bank charter seven millions of the stock were reserved for the Government, and were subscribed for. This amount of the public money was therefore thus invested in the bank. These seven millions were as much a part of the public treasure as that regularly accruing, and for the custody and safe-keeping of which it is now proposed to provide. Congress has the same constitutional control over the one as over the other. But it would not be seriously pretended that Congress had the power to withdraw these seven millions from the bank without its consent. No gentleman here would rise and make such a proposition; and yet the public deposites were, on certain conditions, as solemnly pledged to the bank as the seven millions invested in this stock.

Mr. F. would now notice an argument which had been used some time since by two honorable gentlemen from Alabama, [Messrs. MARDIS and CLAY.] Those gentlemen had taken occasion to taunt certain members of this House with inconsistency in maintaining positions now so different from those assumed with regard to another important measure which was before Congress at the last session. We are reminded that in the discussions on the bill "providing more effectually for the collection of the revenue," generally known as the force bill, it was opposed on the ground that it was designed to carry into execution an unconstitutional law; and yet that those who urged that objection were now contributing their aid to carry into execution another law, which they alleged was equally unconstitutional. Mr. F. said he was one of those who had zealously opposed the bill referred to, and upon the ground stated, among others; but he had really supposed that it required a very moderate share of discernment to distinguish between the two cases. What were the facts? The tariff law was passed years ago, and provisions were already existing, or were made at the time, for its enforcement; but, a short time previous to the last session of Congress, an attitude was assumed by one of the States, which induced some apprehension that serious obstacles might be interposed to the collection of the duties and the regular execution of the law. Under these circumstances, it was proposed to put at the command of the

President the army and navy of the United States—yes, sir, said Mr. F., to arm him with the whole military power of the country, that he might, at once, crush one of the "free, sovereign, and independent States" of this confederacy. Mr. F. did oppose the passage of the law conferring these extraordinary, these alarming powers; and the opposition he had made to it, feeble as it was, would long be among the proudest of his recollections. But what analogy that case bore to the present, he confessed his comprehension was too blunt to perceive. In the case of the tariff, there were already laws provided for its enforcement; there were the courts to administer those laws; and it had not appeared that they were inadequate: indeed, not even an alleged violation had taken place. Where, then, he again asked, was the similarity between the two cases; and where his inconsistency? In the one instance, he had voted against conferring extraordinary powers to enforce an unconstitutional law; in the other, he had refused to violate, or sanction the violation of, an unconstitutional law; willing to leave the controversy, in both cases, to the courts of justice. If this was inconsistency, he must submit to the charge.

Mr. F. desired, however, to run the principles of the gentlemen from Alabama out into their practical operation. This was a favorite doctrine with him; and he distrusted the correctness of any principle which could not stand this test. Let us then see how the principle will operate. By the provisions of the charter, regular dividends of the profits are to be made at stated periods among the stockholders. The United States, holding one-fifth of the stock, are entitled to that proportion of the profits. Suppose, then, at the next dividend, when your Treasurer draws on the cashier for the amount due the United States, he should receive for answer that the bank had no money due the United States; that it had been determined by some of the high officers of the Government that the charter was unconstitutional; and, if so, the Government could derive no rights under it—what would the gentlemen think of such a response? Would they be satisfied with this reply, and calmly consent that money belonging to the United States should thus be withheld and lost? But suppose, on receiving this answer, the Secretary of the Treasury should order the district attorney of Pennsylvania to repeat the call upon the officers of the bank, and notify them that unless the amount of the dividend was immediately paid over, legal proceedings would be instituted. The attorney goes to the bank and delivers the message, and the offcers reply: "All we desire is, to have all the questions in controversy between the bank and the Government settled by the courts. But the officers of the Government are not willing to such a reference; they have determined that the bank is not entitled to the possession of the public money, as stipulated in the cnarter; and moreover allege that the charter is unconstitutional, and withhold from the bank its just rights. Now, let the Government refer the points in dispute to the courts of justice, and we are content to abide the decision." What reply these Government officers would make, Mr. F. would not pretend to conjecture: the gentlemen from Alabama could no doubt suggest one.

Mr. F. would present another case, for the purpose of carrying out the doctrines of the honorable gentlemen from Alabama. Suppose a citizen of that State should borrow from the United States Bank, $10,000, giving his note; and, failing to pay when the note becomes due, should be sued by the bank; and suppose the borrower should resist the payment of the note on the ground of the unconstitutionality of the bank charter; would they consider the plea sufficient to release the debtor from the payment of the money thus borrowed? But even if they should determine that, by reason of the unconstitutionality of the charter, an action could not be supported on the obligation thus given to the bank, what would they say of the moral ity of the man who could set up such a defence? Such an act would meet the indignant scorn and contempt of every honest man. And where, inquired Mr. F., was the difference between a Government and an individual, in this respect? For himself, he was not well versed in that code of morals which, while it exacted from individuals a rigid discharge of their obligations, considered the solemn pledge of a Government as a mere commonplace thing, to be sported with at pleasure. He placed a higher estimate on national faith. He considered Governments bound by the same rules of common honesty and moral obligation as the private man; and so long as he had any participation in the public councils, he should endeavor to act on this principle. It was this principle which had influenced his vote with regard to the restoration of the deposites; that same morality which would oblige him as an individual to discharge a debt contracted with the bank, would impel him as a public man to redeem the faith of the Government so solemnly pledged to it.

This pledge alone, Mr. F. said, would restrain him from voting for the bill now before the House, or any other bill for depositing the public money any where but in the United States Bank, during the continuance of its charter, provided it complied with its contract for the safe-keeping and transfer of the public money. Gentlemen had dwelt very earnestly upon the mischief and ruin which would be produced at the end of two years by returning the deposites, unless the charter of the bank were to be renewed. Mr. F. had the same reply to make to this argument that he made to gentlemen who urged him to vote for the renewal of the bank charter to prevent derangement of the currency, commercial embarrassments, and general distress. Even if it were certain that all these results would be the consequence of a refusal to renew the charter, his vote would be the same. He should consider this renewal as a violation of the constitution, as already remarked; and such violation he could not commit on grounds of expediency. So with regard to the bank charter—the contract between the Government and the corporation. He could not go into the consideration of the mischiefs which might grow out of a fulfilment of the stipulation of the Government with respect to the deposites; that was a matter for the framers of the charter to have considered; it was enough for him that such is the contract. Here is the bond of the Government; and even though executed to such a "monster" as the bank, so far as it depended on him, it should be faithfully kept.

Mr. F. objected to this bill, also, because it was giving the sanction of Congress to what he considered the illegal act of the Executive in removing the deposites. But more than this: it not only acquiesces in, but carries out, the principles assumed by the President in his "cabinet paper," and more distinctly claimed in a document which has acquired some notoriety, commonly called the protest. What were those principles? Why, that the Secretary of the Treasury is an executive officer, and therefore entirely subject to executive control; and that whatever power is conferred, or duty imposed, on the Secretary by Congress, is to be executed under the supervision and direction of the President. The President has indeed gone farther with regard to the public money, and claims not only that its custody belongs to the Executive department, but that "Congress cannot take it out of the hands of that department without an assumption of executive power, and a subversion of the first principles of the constitution." Mr. F. did not intend to enter here into an examination of these extravagant and alarming pretensions; the short time which he felt himself justified in occupying, at this late hour of the session, would not allow him to do so; nor was it at all necessary for his present purpose. He merely wished to call to the recollection of the House the ground assumed by the President in affirming his right to control the Secretary of the Treasury in

the exercise of whatever power was conferred on him by Congress, and the avowal of his determination to exercise this right, and then to point out the sanction we are now called on to give to this claim of power. In the very first section of the bill under consideration, the Committee of Ways and Means propose to provide "that it shall be the duty of the Secretary of the Treasury to select and employ, as the depositories of the money of the United States, such of the banks incorporated by the several States," &c. Here, then, with fair notice of the right asserted by the President, the committee propose so to regulate the deposite of the public moneys as to place them entirely within his custody and control. It was indeed somewhat remarkable, that, with this claim of power staring them in the face, and with the professions so repeatedly made, that the great object was to guard the public treasury, and place it beyond executive interference, the committee should have thought proper to apply to the Executive to prescribe these safeguards, and suggest the regulations necessary to be made. Yes, sir, said Mr. F., the committee state in their report that "they deemed it proper, in a matter of so much importance, to ascertain from the Secretary of the Treasury his opinion and views in regard to the regulations proper to be adopted in the employment of the State banks as the depositories of the public money;" and they report to the House the Secretary's letter, upon the suggestions of which this bill is framed; and as, by the new executive creed, the Secretary is entirely under the control of the President, this letter has doubtless received his approbation: so that we are now furnished with an executive project for regulating the custody of the public money, which is to be matured by Congress; and, as might have been expected, the Executive, in perfect consistency, contemplates by this project such regulations as will leave the depositories to its selection and employment, and thus secure the custody which it claims.

Mr. F. said there was a striking coincidence which he begged leave here to notice. He was not able to refer to dates, not having the papers before him, (he regretted he had not;) but his impression was, that no great length of time intervened between the call upon the Secretary of the Treasury by the committee, his reply, and the protest.* Thus, while the administration was asserting its claims to the custody of the public money to one branch of Congress, it was submitting to the other its scheme for carrying them into effect.

And here, Mr. F. said, the reasons against the act of the President, in removing the deposites, were most strikingly illustrated. By this very act the President had acquired a control over the public money, which could not be divested unless Congress should pass just such a law on the subject as was agreeable to him. He suggests, to be sure, (or the Secretary of the Treasury does,) that provision be made for depositing the public money in the State banks, under regulations to be prescribed by Congress; but the very bill submitted to us, providing these regulations, concedes to the President the very power which he claims. And does any gentleman believe that any act which does not virtually contain this concession can be passed, except by the vote of two-thirds of both Houses of Congress? For instance, if the power and duties assigned by this bill to the Secretary of the Treasury were conferred on, and confided to, the Commissioners of the Sinking Fund, does any one imagine that the act, if passed by Congress, would receive the sanction of the President? No, sir; having declared that "the custody of the public money cannot be taken from the Executive without violating the first principles of the constitution," he certainly would put his veto on any act proposing to confide this custody to other hands.

But, although Mr. F. was opposed to the power proposed to be yielded by the bill before the House, he desired to have it amended, so that, if it passed, there should be nothing left to misconstruction. The bill proposes (as already remarked) to authorize the Secretary of the Treasury to select and employ the banks of deposite. Now, as we were forewarned that the President will claim and exercise whatever power is conferred on the Secretary, Mr. F. should move, at a proper time, to amend the bill by striking out the words "the Secretary of the Treasury," in the first line of the first section of the bill, and inserting, in lieu thereof, "the President of the United States;" so that the authority intended to be conferred should at once be conferred on the functionary by whom it is claimed, and under whose direction and control, even if the bill passed in its present shape, it would be exercised. Mr. F. had nothing to conceal; he had always found a straight-forward course the safest, and certainly the most honorable. He wished to see if Congress was disposed to yield to the Executive the power it had claimed; and, if so disposed, he hoped it would be expressed in plain, intelligible language; he wanted nothing uncertain, nothing equivocal. Let not gentlemen seek to obtain, by indirection, that which they will not openly advocate. If they intend to yield this power to the President, as they certainly will by the passage of this bill, let them say so, that the people may understand it; though against such a concession of power, as well as against the claim set up to it, Mr. F. took occasion, before this House and this country, in language now consecrated by authority, to enter his "solemn protest."

And Mr. F. implored gentlemen, before they went too far, to reflect seriously on the concession they were about to make. Much had been said during the session about executive usurpation—the union of the purse and the sword, &c. With these matters he should not now concern himself; he wished to draw the attention of the House to the important principles which they were called upon to decide; and he was anxious that they should be decided without reference to any particular individual. We were not legislating merely for the present moment, but for all time. He especially begged the devoted friends of the present Chief Magistrate to remember that they were now settling principles which would last long after he had retired from his present elevated station; and, unlimited as their confidence may be in him, were they prepared to yield the same powers to his successor? Do they see no danger in the exercise of the power in question by a daring and ambitious man? Remember, said Mr. F., how many restless and aspiring spirits we have among us, eager for the pinnacle of power; and shall we risk the fate of our glorious constitution, and the destinies of this great confederacy, by sanctioning now a claim of power merely from respect for and confidence in the man who is to exercise it for a few brief years? Mr. F. again entreated gentlemen to pause and reflect; look only half a century ahead; forget the controversy between the Executive and the United States Bank, and think only of the great issue involved in it. Was this House prepared to ingraft upon the constitution, which all profess to venerate so highly—no, sir, not to ingraft upon the constitution—thanks to the wisdom of our fathers, that is more than we have the power to do; but were gentlemen prepared to acquiesce silently in the establishment of a principle, the effect of which would be to blot out the well-defined lines which separate the different departments of the Government, and to unsettle the checks and balances of the constitution? For himself,

*On examination, it appears that the letter of the chairman of the Committee of Ways and Means to the Secretary of the Treasury, asking "his views and opinions," was dated on 7th April. The Secretary's reply bears date 15th April, and the protest of the President was sent to the Senate on the 17th of the same month.

Mr. F. declared he never would contribute, by his vote, to the introduction of a principle so contrary to the whole theory of the Government, and so fraught with danger to the best interests of his country, and to the preservation of its liberties.

Mr. F. had objections to some other of the details of this bill. During the discussion of this great subject, the public deposites, he had heard some very powerful appeals made to the friends of State rights. He said he was not only suspected of belonging to that class, but he was proud to avow it; and whenever he heard a call made upon the State-rights men, that call would meet a prompt response. It was under the principles which he had learned in the State-rights school that he felt himself called on to oppose the fourth section of the bill. He begged the attention of the House to the powers proposed to be conferred by that section on the Secretary of the Treasury. The section is in these words:

"That any bank selected and employed under the provisions of this act, as a place of deposite of the public money, shall furnish to the Secretary of the Treasury, from time to time, as often as he may require, not exceeding once a week, statements setting forth its condition and business, as prescribed in the foregoing section of this act, except that such statements need not, unless requested by said Secretary, contain a list of the stockholders, or the number of shares held by each, nor a copy of the charter. And the said banks shall furnish to the Treasurer of the United States a weekly statement of the condition of his account upon their books. And the Secretary of the Treasury shall have a right, by himself, or an agent appointed for that purpose, to inspect such general accounts in the books of the bank as shall relate to the said statements: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank."

It would be remarked, Mr. F. said, that these were not among the conditions which the Secretary was required to make with the banks; but positive requisitions, proposed to be made a law of this Government, on the banks which should be employed. The bank selected "shall furnish to the Secretary of the Treasury statements setting forth its condition and business," &c. Here is nothing like an agreement; it is imperative. It is the language of command. It is the language of law. True, there was no penalty attached to a failure or refusal to comply with such requisition; but, once admit the right of Congress to make the requsition, and the right to prescribe a punishment for the violation follows as a necessary consequence. And where, demanded Mr. F., did Congress derive the right to make these requisitions of corporate bodies, existing under the authority of the States? He denied that any such right existed; and it was the imperious and especial duty of those who were for preserving and protecting the rights of the States to resist, at the threshold, such assumption of power.

There were some other provisions of this bill which Mr. F. could not pass over without at least a slight notice. By the ninth section it was provided, among other things, that, in the recess of Congress, the Secretary of the Treasury may, under certain circumstances, withdraw the public money from the banks in which it shall be deposited; in which event it shall be his duty to "report to Congress, at the commencement of its next session, the facts and reasons which have induced such discontinuance." This power of withdrawal was, under the new theory, to be exercised entirely under executive discretion and direction; and Mr. F. hoped that the same amendment which he had suggested to a previous part of the bill, that of inserting the President instead of the Secretary of the Treasury, would also be made here. For, if the bill should pass in its present shape, and the President should order a withdrawal of the deposites from any of the banks, for reasons which he might not feel willing to have too closely examined, and should, therefore, forbid the Secretary of the Treasury from communicating the reasons to Congress, how could this requisition be enforced? The Secretary, although willing to comply with the law, would know that his disobedience of the President's order might subject him to the removing—the "reforming" process—and we shall not always find officers who will perform their duty and incur the penalty. Mr. F., therefore, submitted to gentlemen the utter uselessness of making requirements which the very passage of the bill containing them, taken in connexion with other occurrences, would amount to a virtual acknowledgment that they could not enforce.

Mr. F. was decidedly opposed to the tenth section of the bill. That section provides "that, until the Secretary of the Treasury shall have selected and employed the said banks as places of deposite of the public money, in conformity with the provisions of this act, the several State and District banks, at present employed as depositories of the money of the United States, shall continue to be the depositories aforesaid, upon the terms and conditions upon which they have been so employed." Mr. F. would here remark, that if the Secretary of the Treasury, or rather the President, had the power of depositing the money in the local banks, as had been done, and the power of entering into the contracts which had been executed, the contracts made with those banks were already legal; it required no act of Congress to give them validity; and he could but regard this proposition as indicating some misgiving, on the part of the committee, as to the legality of these transactions. Mr. F. objected to the provisions, because he considered them illegal, and was opposed to thus giving the sanction of Congress to unauthorized acts of public officers.

But Mr. F. would not longer detain the House with an examination of the details of the bill. He had only to repeat, what he had already frankly stated, that he could not vote for a law, in any shape, to deposite the public money in State banks, during the continuance of the United States Bank charter, provided the United States Bank was able to comply with its contract for the safekeeping and transfer of the public money. Were he to do so, he should consider himself as sanctioning, not only what he regarded a violation of the plighted faith of the Government, but also a violation of the law of the land. The President had openly announced to the world, that the act of removing the deposites was his own; he assumed the responsibility; and, for one, Mr. F. could not consent to share it with him; he would, in no way, sanction or ratify the proceeding. Be the consequences what they may, he would have neither part nor lot in the matter.

When Mr. Foster had finished,

Mr. GILMER, to whose former opinions Mr. F. had alluded, made a brief explanation of the doctrine he held on the nature of the charter.

Mr. WILDE now rose. He said, in brevity he hoped to rival the honorable chairman of the Committee of Ways and Means, [Mr. Polk:] in close adherence to the subject, he aspired, if possible, to surpass him. There were times, he thought, when the gentleman discussed the Bank of the United States rather than the deposite banks. It was, perhaps, difficult to separate them; and sometimes expedient to bespeak favor by flattering prejudice and odium. Party tactics seemed to consist in directing all your strength against what are supposed to be the weak points of your adversary, taking no care of your own. Accordingly, the Bank of the United States, though already slain, as we are told, by the Hero, is daily reslain by the humblest of his followers, while the pet banks and Post Office are left to shift for themselves. The gentleman had done him the honor to advert to some remarks of his during a former discussion. This topic, from the manner in which it had been treated, required no reply. Mr. W., at the time referred to, had expressed plainly

what he felt strongly, but having said what he thought, was too fond of his own repose to harbor ill-will to any one. If the gentleman had satisfied his conscience on the occasion in question, by the belief that he was merely performing an honest act of public duty, Mr. W. would be the last to disturb its tranquillity.

The House had voted—

That the Bank of the United States ought not to be rechartered:

That the deposites ought not to be restored:

That the deposites in the State banks ought to be regulated by law.

This bill, then, is the regulation proposed; the sanction of the Secretary's act; the adoption of the executive policy; the legislative recognition and approval of the President's experiment. This, we have heard from high authority, is the only measure of relief the country need expect. As to the people, indeed, we are assured their distresses are imaginary. They only require to be relieved of the panic-makers. The approaching adjournment will do that. "The Government," feeling no distress, (except in the Post Office,) can get on without this bill, having the custody of the treasury already.

This assurance is consolatory. But why, then, must we be goaded to its adoption? The spirit of party, he hoped, might be satisfied with the implied, equivocal, negative sanction we have given to the past, by only not condemning it. Shall we be urged—would it be prudent to urge us farther? If we pass this bill, we make all that has been done our own. There are reasons for acting on it definitely, however. All sides of the House feel that. The country is tired of evasions. The friends of the administration are, in some degree, pledged to pass it through this body. They will do it the more readily, because it is sure to fail in the other. They desire the Senate shall reject it, so as to incur the odium of defeating a measure which is to put an end to corruption, and give us a better currency than the United States Bank. Every true believer expects the fulfilment of the prophecy with impatience. If the Senate will not pass it, the prediction cannot be falsified.

Besides, the state of parties may change. Responsibility assumed, may be enforced. The custody of the treasury, with our friends in power, is safe and easy. Rendering an account of its seizure and deficit, to our adversaries may be less pleasant. On the other hand, the opposition may desire to see the administration commit themselves and their friends to this measure. They may hope, if it passes, that the Senate will amend it, and send us something better. Perhaps they deem the worst measure which the Government can adopt better than perpetual inactivity and subterfuge. Before it passed, however, he wished to point out a few errors and defects in its provisions, some of which its friends, if they regarded their own principles and pledges, were bound to remedy. He did not propose to treat the subject in detail, but to examine its main features. What the members of the House desired, at this stage of the session, was not an argument in form, most logically prolix, but facts and hints, the materials for thought, out of which each man for himself would work out his own conclusion.

In the first place, he thought the selection of banks, to be employed as depositories, might be made, and ought to be made, by Congress. He did not perceive any insuperable difficulty, and nothing less should prevent it. The committee themselves admitted there could be no objection to that mode, provided it be deemed practicable to make the selections in such a manner as to protect and preserve the public funds. And why not practicable? Have we not the same sources of information as the Secretary? Where are the returns of the State banks? Cannot we invite further information; raise a committee; or take any other measure that may be requisite? Which do we distrust, our integrity or our discretion? Why must we delegate this important power and duty to the Secretary? Are we invited to stultify or to stigmatize ourselves? For his own part, said Mr. W., if there must be a selection, he would not surrender the right of Congress to make it. He feared giving it up might be construed into an admission of the President's claim to the custody of the public money. He did not mean, by any act of his, to lend the least sanction to the doctrines of the protest, text or gloss. He did not intend to discuss those doctrines. Time would be wanting. On that topic, if the gentleman from Tennessee was not satisfied with the arguments of the distinguished Senator from Massachusetts, [Mr. WEBSTER,] he must leave him to discuss the matter with his own friend, the gentleman from Virginia, [Mr. WISE.]

Mr. WILDE next objected to the bill, that it required no compensation from the State banks for the use of the public money. The Bank of the United States paid the nation for the privileges it enjoyed. The bonus distributed over the period of its charter was equivalent to eighty or ninety thousand dollars annually, and now it is proposed to give gratuitously to the State banks what the United States Bank had only by paying for it.

Mr. Gallatin's report of 1809 suggests the payment of interest on the public deposites, whenever they exceed a certain sum—three millions, he believed. An honorable Senator from Missouri, [Mr. BENTON,] some time since, proposed to subject the Bank of the United States to the payment of interest on the public moneys, in addition to the bonus it had already paid. The average of those deposites, if he remembered rightly, for he did not speak by the book, exceeded six millions and a half of dollars; and the interest on the surplus, at the moderate rate of two per cent., would amount to seventy thousand dollars. Here, then, is a benefit, equivalent at least to that sum, gratuitously conferred on the State banks, for which the Bank of the United States paid upwards of eighty thousand dollars. Mr. W. asked the gentlemen who were so fearful of corruption, if there was no danger of favoritism and corruption here? Are the State banks less moneyed aristocracies than the Bank of the United States? Are they not governed by the same instinct? What makes them more immaculate? The directors and officers, he presumed, were men very much like those of the United States Bank, liable to the same motives, and operated on by the same passions. And your Secretaries of the Treasury, are they to be saints or angels? With respect to corruption, he availed himself of the forcible illustration of a friend, the pungency of whose wit is equalled only by the soundness of his judgment. Putting down corruption by employing State banks in place of the Bank of the United States, is like promoting temperance by establishing five hundred grog-shops in place of one wholesale grocery.

Some gentlemen there, Mr. W. said, would be surprised to learn that this bill contained no security against the dangers of foreign capital and foreign influence. They had heard much of the mischiefs arising from these causes in the Bank of the United States, and he certainly expected that one of the first propositions in the regulation of the State banks would have been the exclusion of all those any part of whose capital was owned by foreigners. But the bill contained no such provision. It was not for him to offer any amendment of that kind. His opinion had been already expressed. The benefit arising from the employment of foreign capital, he believed, was mutual. We have the use of the money which we want, and the lenders the interest which they want. As to foreign influence, he thought the danger imaginary. The action and reaction must be equal. When we have borrowed their money, it is their interest we should prosper, and we have security against them for the peace. But it

did appear to him that, if gentlemen intended to be true to themselves, if they meant to be thought earnest and sincere in their oftentimes-repeated denunciations of foreign capital, now was the time to prove their sincerity. If there was danger in the Bank of the United States, where foreign stockholders have no vote, how much more must there be in State banks, many of which are under no such restriction? Neither can we be assured that the Secretary of the Treasury will make such a selection as to exclude banks with foreign capital; for in one of the banks already selected, he was informed, a foreign nobleman was one of the largest stockholders. In another State the whole capital of a bank has been raised by foreign loan; and, if he was rightly informed, that loan was secured by a mortgage of the real estate of the stockholders.

A provision which he did think ought to be inserted in the bill, was one to distribute the amount of deposites, and limit the use of transfer checks. If the use of the public treasure must be granted to the State banks gratuitously, the banks of all the States should share the benefit with something like equality. Why should the banks in New York or elsewhere have an advantage in this respect? He mentioned New York with no invidious feeling, but merely because the largest amount of revenue being collected there, the banks of that State would have the largest amount of deposites, unless they were required to be distributed. Why should Virginia, and Ohio, and North Carolina, and Georgia, be excluded from their fair proportion of that fund to which they contributed their fair proportion? He was not prepared to say that a very exact distribution could be effected, but a rule might be found, in the representative population of the States, sufficiently near for justice and convenience.

As to transfer checks, if the abuse of them were not limited, every bank employed would be at the mercy of the Secretary, and an unbounded field of favoritism and corruption would be opened.

Mr. W. would draw the attention of gentlemen to another omission in the bill. It not only failed to provide for any examination of the State banks, coextensive with that to which they insisted the Bank of the United States ought to submit, but it failed to provide for any examination by Congress at all. How gentlemen who maintained the power of a committee of Congress to make a secret inquisitorial scrutiny into the individual accounts and private correspondence of the Bank of the United States could reconcile it to themselves deliberately to give up all right to order any examination whatever of those State banks to which the public money is to be lent gratuitously, in such proportions as the Secretary may direct, it was not for him to conjecture. By the bill, as it stands, the Secretary may examine, or appoint an agent to examine, but Congress would have no power to appoint a committee for any such purpose. He respected the sanctity of private correspondence; he approved the inviolability of individual accounts secured by this bill. The provision was a bitter commentary on the conduct of the gentleman's own party; for if the individual accounts and private correspondence of the State banks were to be sacred, why not those of the Bank of the United States? A committee of the gentleman's friends had reported resolutions to attach the president and directors of the Bank of the United States for asserting the principle ingrafted on this bill, and the gentleman sustains that report and this provision.

Mr. W. desired private rights should be carefully respected, but he was not willing Congress should be deprived of all power to examine into the condition of the selected banks. With respect to the Treasury, the Executive had indeed almost become a unit, and Congress a cipher; he would not make it utterly so.

The next objection to the bill was, Mr. W. said, to his mind, a capital one. The selected banks were not required to receive each other's paper, even for duties or debts due the Government. The consequences were inevitable; a multiplicity of local uncurrent currencies, each circulating only in its own narrow circle, and stagnating every where else, all depreciated in comparison with coin, and unequally depreciated with reference to each other. A paper receivable every where at par is to cease, and duties, collected in an unequally depreciated medium are no longer to be uniform, in despite of the constitutional injunction.

Such is the better currency we were promised—such is the fruit of the President's experiment--such his reverence for the constitution! Even the measure proposed for the banishment of small notes was totally insufficient and illusory. If calculated to produce any effect, the committee should have followed it up. They should have required the selected banks not merely to abstain from issuing such notes themselves, and to refuse the paper of any banks that did, in payment of dues to the Government, but also to refuse it in their general business. If it was expedient to discredit such paper, why not dishonor it altogether? We had the same right to impose one condition as the other. Enough of the remedy ought to be administered, if it were a good one, to make the cure perfect. In truth, however, he was far from thinking the small note circulation was to be cured by this nostrum. The only effect of the selected banks refusing to receive the paper of the small note issuers, would be to depreciate it, and a depreciated paper always usurps the circulation. Every one knew that—not excepting the Secretary and committee. It is distinctly admitted, in his letter and their report, as a law of circulation; and the principle of the remedy they propose is in the teeth of the law they acknowledge. He was warranted in saying they had no great confidence in it themselves, since they suggested that the State Legislatures would aid us in this policy. Now, the States had granted numerous charters expressly authorizing the issue of small bills. Would gentlemen inform him how they could be revoked? If the abolition of small notes were a wise and constitutional object, we must have the power to effect it by our own legislation. It was to him a conclusive objection against the exercise of any power, that the concurrence of the States was necessary. If we had it at all, we had it independent of the States. If we had it not, State legislation could not give it to us. The weakness of relying on assistance from that quarter would be well illustrated by one example. Massachusetts drew a large part (probably two-thirds) of her revenue from a tax of one per cent. on the capital of her banks. The banks derived much of their profits from the issue of small bills. What prospect was there that the State would voluntarily relinquish her revenue, or the banks forego their profits? But the mode of abolishing small notes, suggested by the committee, is liable to an objection more serious than its impracticability. It proposes the introduction of a new political heresy. Men have held that the end justified the means. It was reserved for a committee to discover that the means sanctified the end. All the world have pronounced the first maxim false and wicked. If the second escaped condemnation, it would not be its plausibility that saved it. He meant to treat the committee fairly. What were their notions with respect to the currency?

They admit that regulation by Congress is necessary, but deny that it is constitutional. They say that a mixed currency is inevitable, and a sound currency desirable; they grant that Congress has complete power over one element of a mixed currency, but insist it has no power at all over the other; yet they agree that, to operate on either, it is necessary to regulate both; and, in the absence of a constitutional power over the currency, they

propose effecting their object by a constitutional power over the revenue.

What had been the great argument against protective tariffs? That a power to lay taxes, given by the constitution for purposes of revenue, was perverted into the means of effecting an end for which it was not given—the encouragement of manufactures.

But the friends of that policy had at least a consistent system; they held that the protection of domestic industry was one of the objects contemplated by the constitution: they did not maintain that an unconstitutional end was legitimated by the use of constitutional means.

The false doctrine of the committee involves us in a tissue of absurdities. What are they? The States have not the right to coin money; but they have the right to coin the representative of money, and even to delegate that right to corporations. They cannot make any thing but gold and silver coin a tender in payment of debts; but they can authorize a paper issue, which makes a tender in coin practically impossible, and therefore renders a payment in paper inevitable. Congress have no constitutional power to regulate this currency of paper; but they have power to collect a revenue, and they may so manage the collection of the revenue, over which they have full power, as to regulate the paper currency, over which they have no power at all. That is the argument. As to the proposition that we do not intend to affect the currency by legislation, but by contract, it does not deserve the name of an argument. We cannot, by our legislation, authorize the Secretary of the Treasury to contract with the State banks for the exercise of an unconstitutional power.

We are told, "Go to the constitution." We are asked, Where do you find any thing about the currency? Congress have power to coin money. But bank notes are not coin. You cannot say of them, that they are coined. Under a power, then, of coining money, coining bank notes cannot be included. The power of coining money, however, is not the only one given by this clause. Regulating the value of money is an authority also given. Evidently, this does not mean a regulation of the fluctuating value of the precious metals themselves when coined, as compared with other articles; because the framers of the constitution well knew this was impossible. In that sense the value of money depends upon the supply of the mines, and of the commodities for which money is to be exchanged, the consumption of gold and silver in the arts, &c.; and all human legislation is incompetent to regulate it.

Neither does it mean, determining the fineness and weight of the metal coined, because this is necessarily included in the term "coining money." You cannot coin money without regulating its weight and fineness, and the words "regulating the value thereof" would therefore be words of supererogation. Congress, the convention, and the people, were nearly as familiar with the principles of a convertible currency then, as we are now. It is impossible to look into the fugitive literature and politics, the newspapers, familiar letters and pamphlets of that day, without perceiving it. They knew the convenience and advantage of a mixed currency, but they knew also, in spite of many specious theories to the contrary, that neither Government faith, nor receipt for taxes, nor any other means but convertibility into coin on demand, would save paper money from depreciation. They knew also that, although paper money should be convertible into coin on demand, at the pleasure of the holder, yet, by the issue of paper, the whole quantity of money is increased, and the value of course diminished, and this diminution of value affects the coin as well as the paper, so long as the paper continues convertible. If the convention, then, looked, as there is little doubt they did, to the existence of a mixed currency, consisting of coin and of paper convertible into coin, the power of regulating the currency became an indispensable adjunct to the power of regulating the coin, because the value of the latter could never be regulated without the regulation of the former also. This, then, is what was meant by the words "regulating the value thereof;" and this power extends to whatever currency may be in existence, provided it affect the value of money. The possibility of any currency, in modern times, which would not affect the value of coin, may well be doubted. All eminent writers on this subject admit that, throughout the world, the quantity of money has caused its depreciation, and this depreciation, though owing mainly to the paper, has affected the coin also. The paper has gone down and carried the coin with it.

From this clause in the constitution, therefore, the power to regulate the value of money, and from the injunction that all duties, imposts, and excises, shall be uniform throughout the United States, is derived the constitutional power of Congress to regulate the currency, and to provide for the existence of a circulating medium of uniform value.

That part of the bill which provided that the Secretary, for sufficient cause, might remove the deposites during the recess, and assign his reasons to Congress, wanted explanation. It was not said what was to be the effect of Congress approving or disapproving—what was to be the consequence if one House approved and the other disapproved. The clause is like that of the sixteenth section of the charter of the Bank of the United States. If the meaning of it is that, unless Congress approve, the act of the Secretary is annulled, then we may save ourselves all further trouble. The construction of the sixteenth section must be the same, and Congress have not yet approved the act of the Secretary in removing the deposites from the Bank of the United States. Of course, they must go back again, and this bill is unnecessary. If this is not to be the construction, what is it? That the act of the Secretary, not being approved by Congress, or being approved by one House and disapproved by the other, shall nevertheless stand good? Or is it that the Secretary shall merely report his facts and reasons, and there the matter ends--Congress having nothing to do with the facts and reasons reported, but to listen to them? Will the gentleman favor us with a true interpretation?

Mr. W. did not mean to be seduced, even by the example of the honorable chairman of the Committee of Ways and Means, into an argument on the merits or demerits of the United States Bank. Respect for a highly distinguished and virtuous citizen who had done the State some service, and whose retirement ought to be as tranquil as his public life has been useful, demanded a word or two of explanation on the part of the gentleman's proceeding. The honorable gentleman had read a passage from the report of a former Secretary of the Treasury, (Mr. Gallatin.) Mr. W. confessed surprise to hear Mr. Gallatin quoted against a bank. The gentleman must know, at least every one else there knew, that Mr. G. had more than once expressed himself strongly in its favor. He distinctly admitted its convenience and utility. He is understood at this moment, after still longer experience and larger observation, to maintain its necessity for fiscal purposes, and its constitutionality. The anxiety of the honorable chairman to avail himself of such an authority proved that he felt its full weight with the public. Mr. Gallatin's opinions on the currency had, indeed, almost become the sterling standard. And where were we to look for orthodox doctrines on this subject, if not to him and Mr. Madison? These eminent persons could not be suspected of sinister motives. They had lived down all prejudice and detraction, and their fame was a portion of every American's patrimony. How far one of them had been fairly treated by quoting a detached passage,

contrary to the general sense and spirit of his report, Mr. W. would leave to the justice and candor of the House. He did not mean to intimate any intention on the part of the gentleman from Tennessee to misrepresent the opinions of Mr. Gallatin, but the gentleman himself must admit that the extract in question, by itself, did not convey those opinions fairly.

The learned chairman has made a very extraordinary use of another fragment of history. Quoting the proceedings of the Legislature of Pennsylvania, in 1785, against the Bank of North America, he had thought proper to stigmatize the originators and supporters of that bank as federalists, and predicts that Pennsylvania will come to the rescue, and put down the Bank of the United States, as she put down the Bank of North America. Now, sir, what are the facts with respect to the Bank of North America? In the very gloomiest period of our revolutionary war, when the bravest only hoped on by main force, when the Government was bankrupt, and the army about to dissolve, some patriotic citizens stepped forward to advance their money, and pledge their credit, and a bank was formed, called the Bank of Pennsylvania, for the express purpose of supplying the army. Congress, resolving that they entertained a high sense of the liberal offer of the associates, accepted it as "a distinguished proof of their patriotism." The army, by means of this bank, was supplied and recruited, and the bank was remodelled and new-named, and from this origin arose the Bank of North America; "produced," says a contemporary, "by the distresses of the times, and the enterprising spirit of patriotic individuals;" and he adds that the sudden restoration of public and private credit, which took place on its establishment, is an event as extraordinary in itself as any domestic occurrence during the Revolution. In 1785 an attack was made on the charter of the bank in the Legislature of Pennsylvania, imputed, by the same writer, to envy, the spirit of speculation, and a passion for State paper money. The charter was repealed, with something of inconsiderateness and precipitancy. This arbitrary proceeding, which the gentleman from Tennessee holds up to our admiration, was warmly discussed by the people. The breach of public faith was loudly condemned, and the unconstitutionality of the act clearly demonstrated, by the ablest and most popular political writer of the day. The position he assumed was, that the bank might forfeit the charter by delinquency, but the delinquency must be proved and established by a legal process, in a court of justice and trial by jury; for the State or the Assembly is not to be a judge in its own case, but must come to the laws of the land for judgment; for that which is law for the individual is likewise law for the State.

The unanswerable arguments of that writer, (and he could wish a copy of his production was in the hands of every one, for much of it was extremely applicable to the present state of things,) had such an effect as one would suppose on the good sense of the people of Pennsylvania. They changed a large number of their representatives at the next election, and the Legislature restored the charter. This is the true history of the triumph of republican Pennsylvania over the federal Bank of North America; and the federalist who defended the bank, and attacked the arbitrary seizure of its charter, was Thomas Paine.

If the gentleman was not aware of these facts, the question arises, how he could venture to quote that of which he knew so little? If he did know them, the inquiry occurs—what degree of jacobinism must that be, which denounces Thomas Paine as a federalist?

Mr. W. would advert to but one more topic. The Secretary in his letter, the committee in their report, and the chairman in his speech, had all enlarged upon an argument, first used, as far as he knew, by his colleague, [Mr. Gilmer,] in answer to himself. If the State banks are unsound, why has not the United States Bank corrected them? We have had that bank sixteen years, and its great merit is said to be the salutary control it exercises over the currency. Either the State banks, then, are not unsound, or the United States Bank is faithless or useless.

With due submission to so many high authorities, the horns of their dilemma are not fatal or even dangerous. The question is not fairly stated. The State banks may be partly, but not utterly unsound. The United States Bank may have exercised a partial, not an absolute control. The love of peace may have restrained the use of power. The true problem is, not how bad the currency is, despite the Bank of the United States; but how much worse it has been, and will be again, without it.

When Mr. Wilde had taken his seat,

Mr. GORDON said that it was due to that portion of the House who were opposed to the recharter of the United States Bank, and who, nevertheless, disapproved of the course of the Executive in removing the deposites, that some of their number should submit a plan which should be conformed to their views of this very important question. It seemed to be a point given up, that the present Bank of the United States was not to be rechartered; and that, so far as the action of that House was concerned, the deposites were not to be restored to the custody of that institution; and a scheme had thereupon been devised, which seemed as unsatisfactory to the friends as to the opponents of the measure, by which the public money had been withdrawn from the bank. It was said to be the opinion of the President that it was extremely desirable the revenue of the United States should be collected in specie and not in paper; and in connexion with which opinion the House had heard a new name applied to specie: it had been called "Jackson money." He now called upon all who were in favor of "Jackson money" to go with him in support of the old-fashioned, constitutional notion of a hard-money Government. His object was to disconnect the Government entirely from the system of banks, whether State or federal. It must be obvious to every man acquainted with the times, that the country could not get on with its present paper circulation. The Bank of the United States, the great federal monster, closed its doors against all investigation of its concerns; and to rely upon such an institution was to sap the foundations of public liberty. The advocates of the State banks could not propose a system that was satisfactory even to themselves. All attempts to control State banks were contrary to the constitution. All the House could do was to restore the public deposites to the authority of the Treasurer of the United States. They had no right to commit their funds to the State banks; they formed an instrument of power which he should be very sorry to see put in the hands of the Government. The country was in a very unfortunate condition. An interminable war had been declared by the President of the United States against the Bank of the United States; but who could doubt that a very different state of things would have taken place if the bank had thrown its vast power into the aid of the Executive? And should he succeed in substituting any combination of banks in its stead, and consequently in obtaining a control over their interests, it could not but prove a most dangerous instrument in the hands of any Chief Magistrate. It would enable him to tamper with the pecuniary affairs of the States; and though its management might require more address than would be requisite to attain the control of a single institution, yet the consequences would be equally dangerous to the security of liberty. Whichever way the friends of a limited and constitutional Government turned their eyes, they saw equal dangers in the prospects before them. Let them, then, endeavor to simplify the fiscal

machine: let them endeavor to get a simple system, which should be subject to the control of Government alone, (he meant the control of Congress,) and which should be wholly disconnected with all paper money of every description. If the various and conflicting opinions of the House could thus be compromised, an achievement would be effected in favor of a limited and constitutional Government such as had never been witnessed before. It must be evident to all, that the whole tendency of Government was to accumulate power. Whenever an election of President was approaching, (and when was it at a great distance?) all great questions of policy were made to bear upon that all-agitating topic. All good men began to tremble for our institutions. Amidst the strife and rude war of such mighty interests, virtue and patriotism shrank back in dismay. But would gentlemen make no effort to diminish this danger? Must there still be a war against internal improvements, a war against the tariff, a war against the Bank of the United States, or against the State banks, altogether distinct from any regard to the happiness of the people? Was the President and the bank to be left in deadly conflict? Must there be no end to these political contests? Who could go home, and leave things in their present condition, and not apprehend the worst consequences? He called upon the House to make a generous, magnanimous effort to free the country; he invited, he invoked them, to give up something of their party prejudices, and to unite together to steer in a safe, middle course, the vessel of state, now in such imminent danger of rocks on the one side and whirlpools on the other.

He observed that the measure he had proposed was one of extreme simplicity. He should not now attempt to go into the details which belonged to it; if the principle were approved, the details might be easily arranged. He simply proposed to make those who received the revenue the agents for its custody, when not exceeding a given amount, and constituting them the agents, also, for its disbursement. He was aware, indeed, that the members of the House had so long been in the habit of considering matters of revenue as matters pertaining to a bank, that it was difficult, perhaps, for them to admit of any other idea. But Mr. G. did not propose to interfere with the banking principle; he had nothing to do with their notes, whether small or large. Let them regulate that as they could. He did not interfere with the Bank of the United States. He went only for what was originally intended, and what alone was contemplated by the framers of the constitution, viz: that the revenue should be collected in coin. Coin was the only legal tender now, yet Government had made paper substantially such. He was for putting an end to this. He was most clearly of opinion that the hard-money system was the simplest and best the Government could ultimately adopt. There might be some objections urged against it. Some gentlemen might apprehend that it would withdraw too large an amount from circulation. But this objection was not well founded. As the duties on imports should decrease, the amount of surplus revenue would be less and less; it would soon be but a few millions. It might be said that the transfers of money could not be made as easily as by a federal bank with branches. All that would be requisite would be drafts from the Treasury, specifying the place where the money should be paid. These drafts would not be at a premium, but would pass as money. They would be a substitute for bank paper, and the Government would thus be delivered from its connexion with the system of banking; a system which all knew to have a corrupting tendency, and which must be a perpetual instrument of party spirit. The whole world recognised gold and silver as the representative of property; it was the only real money in existence. He hoped to see it the money of this Government.

After some rather confused disputation about order, the amendment of Mr. GORDON was ordered to be printed;

And the House adjourned.

SATURDAY, JUNE 21.

DEATH OF LAFAYETTE.

After the reading of the Journal,

Mr. J. Q. ADAMS rose to state that, on coming to the House, he had been informed that, since the last adjournment of the House, intelligence had been received of the occurrence of a calamity which had befallen the whole race of civilized man. He had not time to prepare a resolution fitting such an occasion, but he presumed it would be obvious to every person that it was an occurrence peculiarly becoming the Congress of the United States to adopt some suitable measure to express the deep sense they entertained of the misfortune involved in the decease of one of the most eminent benefactors of the age and of mankind. It occurred to him that such a duty should be discharged in a manner suitable at once to the dignity of the representatives of the people and States of this Union, and to the merits of him to whose memory this tribute should be paid. This he supposed would be in the form of a joint resolution of the two Houses of Congress. He would now, therefore, submit a motion that a committee should be appointed to consider in what manner a tribute of affection and respect may be shown by the Congress of the United States, expressive of the sensibility of the nation on the event of the decease, and of their veneration for the memory, of the illustrious General Lafayette.

Mr. A. then offered the following resolution:

Resolved, That a committee of —— be appointed on the part of this House, to join such committee as may be appointed by the Senate, to consider and report by what token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the nation on the event of the decease of General Lafayette.

Mr. ARCHER rose to suggest that the blank for the number to be appointed on the committee should be filled up with "five" or "seven."

Mr. J. Q. ADAMS would assent to any number the House might think proper to name.

Mr. WATMOUGH suggessted the number of thirteen.

Mr. CAMBRELENG proposed that the committee should consist of one member from every State in the Union.

Mr. E. WHITTLESEY expressed his hope that every State would be permitted to be represented on the committee, in paying this tribute of respect.

After some further verbal modifications, at the suggestion of Mr. WAYNE,

The committee on the part of the House was, on motion of Mr. HUBBARD, ordered to consist of twenty-four.

The following gentlemen were appointed to compose the said committee:

From Massachusetts, John Quincy Adams, chairman; from Maine, Rufus McIntire; from New Hampshire, Henry Hubbard; from Rhode Island, Tristam Burges; from Connecticut, Noyes Barber; from Vermont, Heman Allen; from New York, C. C. Cambreleng; from New Jersey, James Parker; from Pennsylvania, Henry A. Muhlenberg; from Delaware, John J. Milligan; from Maryland, Isaac McKim; from Virginia, William S. Archer; from North Carolina, Lewis Williams; from South Carolina, Henry L. Pinckney; from Georgia, James M. Wayne; from Kentucky, Richard M. Johnson; from Tennessee, John Blair; from Ohio, Elisha Whittlesey; from Louisiana, Philemon Thomas; from Indiana, John Carr; from Mississippi, Harry Cage; from Illinois, Joseph Duncan;

from Alabama, John Murphy; from Missouri, William H. Ashley.

Some other incidental business having been disposed of,

Mr. POLK moved that the House should proceed to the special order of the day.

Mr. E. WHITTLESEY inquired what that was?

The SPEAKER: Private bills.

Mr. LOVE explained that a bill for the relief of John Bruce had been for two or three years before Congress, and had been delayed under peculiar circumstances; he would, therefore, move a suspension of the rules, that the House should resolve itself into a Committee of the Whole thereon, in order to have the bill brought before the House.

Mr. POLK resisted this motion, and maintained that the special order of the day, as the unfinished business, was the deposite bill.

The SPEAKER decided that it was not.

Mr. WHITTLESEY remarked that the honorable member should consider that although Fridays and Saturdays were specially assigned for the consideration of private bills, yet for the last four months these days had been devoted to other business.

After considerable struggle for precedency of business, Mr. C. P. White succeeded in getting a vote of two to one to take up the gold coin bill.

GOLD COINS.

The House then proceeded to take up the following bill:

A bill concerning the gold coins of the United States and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the gold coins of the United States shall contain the following quantities of metal, that is to say: each eagle shall contain two hundred and thirty-two grains of fine gold, and two hundred and fifty-eight grains of standard gold; each half eagle one hundred and sixteen grains of fine gold, and one hundred and twenty-nine grains of standard gold; each quarter eagle shall contain fifty-eight grains of fine gold, and sixty-four and a half grains of standard gold; every such eagle shall be of the value of ten dollars; every such half eagle shall be of the value of five dollars; and every such quarter eagle shall be of the value of two dollars and fifty cents: and, also, gold coins to contain twenty-three and two-tenths of a grain of pure gold, and twenty-five and eight-tenths of a grain of standard gold, are to be of the value of one dollar; and the said gold coins shall be receivable in all payments, when of such weight, according to their said respective values, and when of less than such weight, at less values, proportioned to their respective actual weights.

Sec. 2. *And be it further enacted*, That all standard gold and silver deposites for coinage, after the thirty-first day of July next, shall be paid for in coin, under the direction of the Secretary of the Treasury, within five days from the making such deposite; deducting from the amount of said deposite of gold and silver, one-half of one per centum; *Provided*, That no deduction shall be made unless said advance be required by such depositor within forty days.

Sec. 3. *And be it further enacted*, That all gold coins of the United States, minted anterior to the thirty-first day of July next, shall be receivable in all payments, at the rate of ninety-four and eight-tenths of a cent per pennyweight.

Sec. 4. *And be it further enacted*, That this act shall be in force from and after the thirty-first day of July, in the year one thousand eight hundred and thirty-four.

Mr. WHITE, of New York, chairman of the committee on coins, moved to amend the bill by striking out all after the enacting clause, and substituting a new bill, fixing the ratio of the value of gold to silver as 16 to 1. Mr. White made a speech explanatory of his reasons for the proposed change, which opened a discussion of much learning and great interest, which occupied the House till a late hour.

Mr. SELDEN strenuously opposed the amendment, and went into an elaborate argument in defence of the bill as at first reported, and in opposition to the amendment. He argued to show that the practical effect of the latter would be, in a short time, to banish the existing silver currency of the country. He considered the proportion proposed to be established as false in fact, and contended that the true ratio was, not 1 to 16, but 1 to 15 5-8; and he offered an amendment to that effect, as follows:

"Strike out 232 grains, the quantity of fine gold in an eagle, and insert 237 6-10—strike out 258 grains, the quantity of standard gold in an eagle, and insert 264 grains. Strike out 116 and 129 grains, the quantity of fine and standard gold in a half eagle, and insert 118 8-10 and 132 grains. Strike out 58 and 64½ grains, the quantity of fine and standard gold in a quarter eagle, and insert 59 4-10 and 66 grains."

Mr. CLOWNEY now rose and addressed the Chair as follows:

Mr. Speaker: I am truly glad that the honorable chairman of the special committee on coins has thought proper to offer the substitute now on your table, which abandons the scheme of a debased subsidiary currency, as reported in the original bill, and enhances the value of gold relatively to silver in the proportion of one to sixteen. By this amendment, all my objections to the original bill are entirely removed. To raise gold in these United States from its present degraded state as a mere article of merchandise, to the rank of a coin destined to become a part of our currency, meets with my most decided approbation. I fully concur in sentiment with the present Secretary of the Treasury, in his late letter to the Committee of Ways and Means, that "the great evil of our present currency is the disproportion between the paper in circulation and the coin prepared to redeem it; and that the first step towards a sound condition of the currency is to reform the coinage of gold."

In these views, the Secretary of the Treasury stands supported by the high authority of several of his predecessors in office, such as a Gallatin, Crawford, Dallas, and Ingham, each of whom in his day directed his attention to this important subject. He also stands supported by the very able directors of our mint, Messrs. Patterson and Moore, in their various communications to the committees of this House and the heads of the Treasury Department; and also by the repeated reports of committees in both Houses of Congress for the last fifteen years. Why all these efforts to reform the coinage of gold have heretofore entirely failed, it is not my object at this time to inquire. It is sufficient for my present purpose to show that, in the opinion of the most competent judges, a necessity for a change in our coinage has existed, and that it must still exist, as nothing has been done to remove it. I believe I may still go further, and assert, without fear of contradiction, that this necessity not only exists, but that it is greater now than at any former period in the history of our country. What is the fact with regard to our present currency? It is, sir, literally a paper currency. The notes of the local banks and the Bank of the United States, now in actual circulation, are estimated by the Secretary of the Treasury at eighty millions of dollars. Out of about seven thousand millions of specie now in circulation in the world, the silver (for gold we have none) in the vaults of all the banks of the United States, federal and local, with which to redeem this eighty millions of paper, does not exceed twenty-five millions. This fact, in connexion with the recent numerous bank failures, and the

consequent evils every class of the community throughout the Union is now suffering, afford the most convincing proofs of the rotten condition of our present currency, unsupported as it is by a firm and broad metallic basis. Therefore, to restore the currency to a sound condition, and furnish a medium of exchange adequate to the wants of the people, when the Bank of the United States ceases to exist in 1836, and its notes are necessarily withdrawn from circulation, I hold to be amongst the first, highest, and most imperative duties of the present session of Congress.

The particular evils, which it is the object of the bill now under consideration to remedy, are to be traced to the act of Congress passed in 1792, establishing a mint, and regulating the value of coins. According to this act, three denominations of gold coins are directed to be minted: the eagle, half eagle, and quarter eagle, all of equal fineness; the eagle to be valued at ten, the half eagle at five, and the quarter eagle at two and a half dollars. The eagle is made to weigh two hundred and forty-seven and a half grains of pure gold, or two hundred and seventy grains of standard gold, eleven-twelfths fine; and the half eagle one hundred and twenty-three and three-fourths grains pure gold, or one hundred and thirty-five grains standard; which, added together, makes the weight of these two coins, valued at fifteen dollars, equal to three hundred and seventy-one and one-fourth grains of pure gold, or four hundred and five grains standard. By this same act the dollar is made to weigh three hundred and seventy-one and a quarter grains of pure silver, or four hundred and sixteen grains standard, being fourteen hundred and eighty-five parts out of sixteen hundred and sixty-four fine, instead of eleven-twelfths, as in the gold coins.

Hence we find the relative value of gold to silver, as established by our laws, to be one to fifteen; or, in other words, that the three hundred and seventy-one and a quarter grains of pure gold contained in an eagle and half eagle, are valued by law as worth fifteen times as much as the three hundred and seventy-one and a quarter grains of pure silver contained in a dollar.

The reason which induced Mr. Alexander Hamilton, the Secretary of the Treasury, in 1792, to recommend this ratio of gold and silver in our coinage, and Congress to adopt it, was because they considered it the average value of the two metals at that time, amongst the principal commercial nations. While I admit the soundness of the principle, and do not feel disposed to deny the correctness of the calculation at that time, yet does the calculation no longer hold true. Since that period gold has evidently risen in value relatively to silver, until their average relative value in the commercial world may be fairly estimated at one to sixteen. The truth of this fact will satisfactorily appear from a table furnished by the director of our mint, to be found in the report accompanying this bill. According to this table, we find that in the coinage of the two metals, in Antwerp, Netherlands, Portugal, Brazil, Spain, and her former colonies in South America, the proportion of gold to silver is 1 to 16; while in Hamburg it is 1 to 16¾; in Denmark 1 to 16⅔; in Sweden 1 to 16 3-7; in Russia 1 to 17; and in Vienna and Trieste 1 to 18. It is true, standard gold to silver, in England, is 1 to 15.7, in France 1 to 15.5, and in Holland 1 to 15.8. But, notwithstanding this legal or standard value of gold to silver in England and France, yet has the relative market value of gold to silver, in these two nations, for a number of years past, considerably exceeded its value at the mint. Mr. Ingham, in his report to this House, while Secretary of the Treasury, in 1830, lays it down as a rule that "it is only from the market price of both metals, without regard to the mint price, the true relative value is to be found." He also states the historical fact, that the average value of gold to silver in England, for the last five years preceding his report, was 1 to 15.81; and in France, for the last thirteen years preceding his report, 1 to 15.82; in addition to this, gold has been frequently in value above this ratio, in England, ever since the year 1819.

Hence we find, according to our present mint regulations, that gold is esteemed less valuable in the United States, as a coin, than in any other nation on the face of the globe.

Owing to this circumstance, our gold, whether in the shape of coin or bullion, has, for the last fifteen years, even in England, where its standard value is considerably below that of most other nations, commanded a premium from four to six and three-fourths per cent. The inevitable consequences of such an ill-advised policy, or careless neglect in legislation, have long since been experienced in the entire banishment of gold, not only from circulation, but also from our country; and in the complete counteraction of its tendency to return in the course of trade. That these are serious evils, none can deny; and, if so, all must admit the necessity and importance of the immediate application of an appropriate remedy.

Having shown satisfactorily, I trust, that the cause of the present evils in our metallic currency, (the only currency known to our constitution,) is the undervaluation of gold by our laws, it is evident that the nature of the remedy must be to remove the cause of the evils, by raising the value of gold relatively to silver in our coinage. I must confess, however, that although the cause of the evils and the nature of the remedy are obvious, yet, when we come to apply the remedy, we find it an extremely nice, difficult, and complicated question to determine what proportion of gold to silver in our coinage is necessary to place the two coins upon an equal footing in commerce, and ensure their concurrent circulation, so that the one may be readily exchanged for the other by tale, to suit convenience or pleasure.

There are those, and I am not surprised to find the gentleman from New York, [Mr. SELDEN,] who has just taken his seat, amongst the number, who not only deny the expediency of regulating the standard of value in both metals, but also the practicability of so regulating it as to preserve both metals in simultaneous or promiscuous circulation. The gentleman from New York contends that it is inexpedient to establish what has sometimes been called the double standard of value, because the legal relative value of the two coins is liable to be changed by a variety of causes beyond the reach and power of legislative control. Amongst these causes he has enumerated the difference in the supplies of the two metals from the mines; the variations in the relative amount of labor expended in their production; the different relative proportions at different times applied to manufacturing purposes and to the currency; and the great diminution or increase of demand for one of the precious metals in preference to the other, arising from a change in the usual course of trade, or from an alteration in the circulating medium of some wealthy nation. He, and those of his faith, also contend that it is impossible to maintain both metals in circulation together, because the fluctuations in their relative value, which no legislation can prevent, will drive from circulation that metal which becomes the most valuable in commerce, and preserve in domestic use that which is the cheapest, and in this way not only impair the obligations of contracts, but also convert the cheapest metal into the practical standard and currency; and that the practical standard and currency are again liable to be changed as the causes which produce the fluctuations in the relative value of the two coins may from time to time operate. Hence they conclude that one metal alone can be made the standard of value in any country; that for this purpose public and mercantile convenience unite in favor of silver; that gold may and ought to be coined

merely with the view to ascertain its fineness and weight, and stamped by public authority with a value under its market price. Such, indeed, appear to have been the views of the committee on coins when they adopted in their original bill the ratio of 1 to 15.625, for which the gentleman from New York [Mr. Selden] is now so strenuously contending.

That such were the principles that governed the committee in recommending, in the original bill now on your table, the proportion in the eagle of 1 to 15.625, may be fairly inferred from the express language of the report accompanying the bill. In the report they say: "Your committee desire to raise the relative value of gold to silver, so as to approximate its estimate in general commerce, and preserve silver as the practical standard; and to authorize the assay and stamping of domestic gold in ingots, at the lowest charge." The honorable chairman of the committee on coins has thought proper, for reasons satisfactory to his own mind, and I trust to this House, to change his ground, and the gentleman from New York [Mr. Selden] has taken his place, and is now contending for what the honorable chairman has abandoned.

I must confess my inability, as well as the want of inclination, were I able, at this late hour of the day and advanced period of the session, to attempt to answer all the objections which have been or may be urged against the use of gold and silver in the same country as the standard of value. I cannot, however, consent to pass in silence what I conceive to be the most formidable of the objections, to wit: the fluctuations in the relative value of the two metals, arising from the difference in the supplies from the mines, and the variations in the relative amount of labor expended in their production. I frankly admit that, as the specific qualities of the two metals are nearly the same, which render them equally useful in the ornamental arts, and equally fit to answer all the purposes of money, their relative value must chiefly depend upon the relative supplies. Were gold and silver produced in equal quantities, and with the same amount of labor, I can conceive of no good reason why there should be any difference in their values. I can, however, readily conceive, were this the case, that the quantities produced might so far exceed the demand for the uses to which they have been applied, as to render them together unfit to be the standard of value or medium of exchange. But happily for the good of society, nature in her wise economy has otherwise provided. Neither of these two metals appear to exist in nature in sufficient abundance, without the aid of the other, to supply the commercial world with a medium of exchange, nor is the labor employed in their production equal; hence, from a species of necessity, have both metals, in all ages of the world, been used as money, the gold being esteemed the most precious, not so much on account of its superior utility in coinage or in the ornamental arts, as on account of its greater scarcity, and the greater amount of capital and labor expended in its production.

Although the law which governs the supplies of gold and silver is not invariable, yet have the quantities produced borne such a uniform relative proportion in weight as to preserve for centuries in succession a degree of uniformity in their relative value, sufficient to render them together the fit measure of property. According to a statement by Lord Liverpool, in his letter to the King of England, to be found in State Papers, 1st session, 21st Congress, vol. 4, doc. No. 117, we find that, from long before the Christian era until the reign of Queen Elizabeth in 1560, a period of more than two thousand years, the proportion of gold to silver was never below 1 to 10, except once in Rome in the days of Julius Cæsar, and once in England in the reign of Henry III.; and never exceeded the proportion of 1 to 12½, except once in Greece in the days of Herodotus, and twice for a short time in the Roman empire. During the whole of this time, as is stated in another part of the same document, upon the authority of Humboldt, the average proportion in weight of the two metals was 1 of gold to 40 of silver.

The rich mines of America, soon after its discovery, added greatly to the annual supplies of both metals, and considerably varied their relative proportions in weight, so that when the gold mines of Brazil were discovered, near the end of the 17th century, the quantity of silver in weight exceeded that of gold 60 to 1. The productiveness, however, of the mines of Brazil reduced the proportion in weight of silver to gold 30 to 1. In the latter part of the 18th century, the silver mines of Mexico produced fourfold the quantity derived from them at the commencement; so that, from 1750 to 1800, the quantity of silver imported from America into Europe has been to that of gold 40 to 1; the increase of silver from Mexico having fully counterbalanced the former increase of gold from Brazil. In order to sustain the production of gold to silver in this ratio, it has been found necessary, every where in the civilized world, progressively to strengthen the inducement for its production, so that it has advanced, since the reign of Queen Elizabeth, from 1 to 11 to 15.7 in England, and to 16, 17, and even 18, in other countries. From this brief history of the two metals, we have but little reason to apprehend any great change in their present commercial value, occasioned by a sudden increased difference in the quantities produced, and labor employed in their production. From it we are also authorized to conclude, with the director of our mint, Mr. Samuel Moore, in his letter to Secretary Ingham, in 1829, that "it results from past experience, and is conformable to analogy, that the proportional value of gold to silver must be progressively increased from time to time, to elicit from the mines its present average relative production in weight, or countervail its diminution.

The theory as to the expediency and practicability of adjusting the proportions of gold to silver in our coinage, so as to make them together the standard of value, and preserve their concurrent circulation, has not only been advocated by the highest authority, but its truth has been practically illustrated by the example of one of the wealthiest nations on the globe. Mr. Gallatin, in his letter to the Secretary of the Treasury, in 1829, in speaking of the monetary system of France, where gold and silver coins circulate simultaneously, and where the gold is rated too low in proportion to silver, states "that, during the last thirteen years, there never has been a premium on silver coins; and never, during that period, has the premium on gold reached one per cent." He also maintains that the fluctuation in the legal relative value of the two coins, arising from the demand exceeding or falling short of the supplies of either of the metals, is less in amount than the fluctuations in the value of both or either of the precious metals, as compared with that of all other commodities: and hence the fluctuations in the legal relative value of the two coins, when well adjusted, are a quantity that may be neglected; and is, in fact, never taken into consideration at the time of making contracts.

The changes, therefore, in the relative value of the two coins being inconsiderable, when compared to the simultaneous rise and fall of both metals, in relation to all other commodities, it follows, as a necessary consequence, that whenever such a rise or fall takes place, it would be of an immense advantage to a nation to be able to resort to both of the metals instead of one. But in case the rise should be only on one metal, and that should be the only lawful currency, the increased demand for it would occasion its exportation, and thus the whole amount of specie be greatly diminished; the evils of which might have been prevented by a resort to the other metal. Amongst the many and great advantages arising from the use of both metals in the same country as money, besides increasing the moneyed

resources of the country in the times of great pressure, or when one metal should be preferred in commerce to the other, is the difference in their intrinsic value, which admirably adapts the one to the purposes of effecting small payments, and the other to the purposes of transportation, in defraying travelling expenses, in liquidating state and national balances, and in discharging every where throughout the world large obligations.

In these views Mr. Gallatin and Mr. Baring, the most experienced and distinguished financiers of the age, perfectly agree. They admit the fact, upon which the gentleman from New York [Mr. SELDEN] has so much relied, that, when the coins of the two metals are placed upon an equal footing in the payment of debts, a change in their relative market value would produce a change in their relative legal value, and that that metal which becomes the cheapest will drive the other from circulation, and become alone the practical standard and currency. The truth of this theory has long since been clearly exemplified in the history of the monetary system of England, and also in the monetary system of these United States. Although, by our constitution and laws, gold is regarded as money, and is made a legal tender, the same as silver, in the payment of debts, yet, in consequence of the vast difference in the value of gold at our mint, compared with its relative value to silver in general commerce, it has long since departed from the United States, leaving silver the only metallic currency. In order to restore gold again to our currency, and keep it in circulation, it is only necessary to raise its value in our coinage so as to correspond with its value relatively to silver in general commerce. "In the use of both metals," says Mr. Baring, in his examination before the committee on coins in England, in 1828, "one of two courses must be taken, either to leave them to chance, and give to the debtor the advantage of the option, as was the case under the old English system, or fix at once which is to be your standard, and adjust, at given periods, your other metal to it. If you want the advantages of the fixity of standard of one metal, with the facilities and conveniencies of two, you must take the latter course. The system of occasional adjustment has been practised in France, and in these matters practical experience is worth all the theories of mere speculation.

In attempting to fix the value of gold at our mint, with the sole view of introducing it into circulation with silver, so that the one may not be preferred to the other in the payment of debts, a due regard must be paid to the relative value of bullion in the great marts of the world, and more especially in those nations with which we have the greatest commercial intercourse. In addition to this, we must also take into consideration the fact, which the history of the two metals incontestably proves, to wit: the universal tendency of gold to rise in value relatively to silver; and also the fact, proved by the table to which I have referred, furnished by the director of our mint, that much more of the two metals are now coined upon the basis that gold is in value to silver as one to sixteen, than according to any other proportion. It is true, the average market value of gold and silver bullion, or of foreign coins, which are esteemed as bullion in the markets of England, France, and Holland, has been for many years past, and is now, between 15.8 and sixteen to one. But to adopt for our standard the minimum market value of the metals in either of these three nations would be, I am confident, to continue the evils of our present system. Independent of the considerations as to the tendency of gold to rise in value relatively to silver, and the fact that the average proportion of gold to silver in the coinage in much the largest portion of the world is now sixteen to one, the difference in the expense and convenience of exporting gold and silver, added to the advanced value of gold, arising from an increased demand for it, in case it were introduced into general circulation in the United States, would be fully if not more than equivalent to eighty-eight hundredths of one per cent., the difference between 15.86 and sixteen to one. Therefore, am I decidedly in favor of the amendment offered by the honorable chairman of the committee on coins, which makes the eagle weigh two hundred and thirty-two grains pure gold, and two hundred and fifty-eight standard, nine-tenths fine, which is equivalent to one of gold for sixteen of silver. I am in favor of this proportion, not from any selfish or local considerations, but because I sincerely believe that it is for the public good that both metals should be coined at our mint, and that nothing short of the proportion proposed in the amendment offered by the chairman of the committee will place the two coins upon a level in the commercial world, and ensure their concurrent circulation in the United States.

When Mr. CLOWNEY sat down,

Mr. GORHAM rose and said, it was important that the true ratio of gold and silver should be accurately fixed. If there was too much gold in the eagle, every body would pay their debts in dollars; if too little, all would pay in eagles. It was very difficult, and a matter of great nicety, to fix their relative value. At first, it had been determined that one ounce of gold was worth fifteen ounces of silver. This continued to be the relative value established by law, from the year 1792 till about fifteen years ago. This continued to be very near the truth for about thirty years, when the proportion had suddenly changed. Whence the change had proceeded it was not easy to tell, probably from an increased production of silver and a proportionable decrease in the production of gold; or because more gold had been employed in the coinage of Great Britain. Whatever the cause might be, the value had risen from fifteen ounces to fifteen and a half and fifteen and three-quarters. That was the very extent. This bill fixed it at sixteen. However the standard was fixed, it ought not to be changed every day. He did not know that it was very essential to change it at all. The present standard had long been found a very good one. But if any change were made, it must be done with the greatest care. It was now only fifteen years since gold and silver were in concurrent circulation in this country, and debts were demanded and paid in either indifferently. And ever since that period, the business of the country had got along very well until the late disturbance on the subject of the currency. The question in this bill, Mr. G. observed, was one purely and wholly separate from all politics. It was a question of business, which rested altogether on different grounds. It was impossible for that House, by any act of its legislation, either to take from or to add to the value of gold. That value was fixed by other things than acts of Congress. The Government might mark its own coin with what value it pleased, but it could not give it that value; and if by law they allowed money to be a lawful tender for more than its value, they immediately affected the obligation of contracts, which they were forbidden by the constitution to do. Their law could no more change the value of gold than it could make gold. The real use of a mint was only to assure the people that the piece stamped was of a certain weight and fineness. If that weight could be stamped in figures, it would be all that was wanted.

Mr. G. said the danger of establishing an improper standard was sufficiently obvious. The value of gold, in comparison with silver, had risen in England and France, so that, as he had stated, an ounce of gold was worth fifteen and three-fourths ounces of silver. If, then, he owed ten dollars, and had an eagle which was worth in England ten dollars and forty-five cents, he certainly should not pay his debt with that; but should retain the piece and save his forty-five cents. All men would pay in the cheapest metal they could. No man would pay his

debts in gold if it was fixed too high, and the consequence now was, that every body who must pay in coin, paid in silver. Our silver coin answered the ordinary purposes of business to pay small debts, and the country had but little more than was required for this purpose. This, in fact, was all for which a metallic currency could ever be needed; for a bank bill, if known to be as good, would always be preferred, especially to the smaller gold coins; they were more easily carried, and not so easily lost. As to the gold dollars, provided in this bill, they would escape from the pocket as readily as a sixpenny piece, which indeed they would greatly resemble. The introduction of coins of this description never would supersede the use of small bank bills, because, from their inconvenience, they would always be at three or four per cent. discount.

Mr. G. warned the House not to bring about, by its hasty legislation, the same state of things in relation to silver which had heretofore existed respecting gold. The gold at present in circulation was obtained from two sources, one in Russia and the other in our own Southern States. That from Russia was found in the Ural mountains, whence from one to three millions sterling's worth was obtained annually; while about a million and a half was obtained here. An increase in this latter source might go to make gold cheaper; but it would be better not to legislate until the price of gold should go down. The ratio of 16 to 1 had never been established by the legislation of any nation but Spain, and it was unquestionably above the true value. It might be asked how we were to get the true value? The answer he should give was, go into the great market of the commodity; there the average of demand and supply would be accurately fixed, and there only. That average, in England, was, at present, 15.771 to 1. In France, it was 15.68 to 1. Here, in the United States, it was only 15.63 to 1. The medium of these three rates would be 15.731 to 1. To appeal from these great marts to the standard of the Spanish Government was futile. If that Government choose to say the rate should be 16 or 18 to 1, it could do so; but it would be a mere arbitrary *dictum*, without any real effect in practice. As to the Spanish doubloon passing at so high a rate, the true reason was that that particular description of coin was better known than any other by those half-civilized and savage nations who received gold in traffic. All the inhabitants of the East and West Indies were, and had long been, in the habit of receiving that coin at a specific valuation. The same was formerly the case with the Spanish pillar dollars, as they were called. Dollars with that particular stamp, though intrinsically worth no more than others, yet commanded a premium of five or six per cent., because they were better known, and more readily received by the Chinese and some other nations. If the House should insist on fixing the ratio of gold to silver at 16 to 1, what would they do with gold but what Congress had once done with silver, viz: attempt to fix by legislation what nothing could fix but the mercantile transactions of the country. The House at one leap would add two and a half per cent. to its value. They would add more in one hour than the course of commerce would do in five years. If this bill should pass, what would be its effect on the policy of all banks which held large amounts of silver? Did gentlemen suppose such banks would issue their bills very freely, when Congress had diminished their value two and a half per cent.? The obvious tendency of such a measure must be to prevent discounts. Were he a director, he would call in silver immediately, and pay for it in cheap gold, by which he would make two and a half per cent. So far from returning the silver now in the banks to the circulation of the money market, the bill would offer an inducement to every bank in the country to hold it up. As to imposing a charge for coinage, he considered it a very proper measure. But there was one suggestion which he wished to offer, and which, indeed, had been the chief inducement for his troubling the House at this time. It was admitted that there must be a concurrent circulation of silver and gold. The difficulty of fixing the ratio of their relative value arose from the various causes which concurred perpetually to alter the value of both, and which no one could control. If the ratio should be fixed to-day, these causes would change it to-morrow. But there was one mode of completely remedying the practical evil arising from this state of things. Let every payment, beyond a small amount, be made one-half in gold and one-half in silver. The effect of this would be to compel the banks to keep a supply of both metals. Whichever happened to be the cheapest, the advantage would be equally shared between the bank and its customer. This would relieve the difficulty entirely.

As to the abrasion of the two metals, the same amount of it upon the gold piece which happened to one of silver would be fifteen times as great in value; besides that, silver would actually suffer less abrasion than gold. The gold pieces thus reduced in weight would be kept in circulation; for, whenever the goldsmiths wanted to use money as bullion for purposes of the arts, they always choose the heaviest they could get. If the law should make gold too cheap, the country would have no silver circulation; for who would bring silver here on which he must lose two and a half per cent.? We should soon have the same cry about the want of silver coin which there was now about gold. Then the next step would be to tamper with the value of the dollar; and thus the nation would be vacillating in its currency like a boy upon a plank. But, if debts should be paid half in one metal and half in the other, all danger would be done away.

Mr. G. said he should vote for the amendment proposed by the gentleman from New York, [Mr. SELDEN,] and by that gentleman's consent would append his own motion to his, as an amendment.

[The following is the amendment proposed by Mr. GORHAM.]

Sec. 3. *Be it further enacted*, That from and after the first day of January, 1840, the legal tender for the payment and discharge of all debts contracted or obligations for the payment of money incurred after the passage of this act, shall be one-half in the silver coins and one-half in the gold coins which by law shall be made current in the United States: Provided, however, that any sum less than five dollars, and that fraction or remainder of a larger sum which shall be less than five dollars, may be paid in the silver coins current by law within the United States.

Mr. SELDEN consented to admit this as a modification of his amendment, in order that a question might be taken upon it.

Mr. CAMBRELENG said that, if the gentleman from Massachusetts [Mr. GORHAM] wished to bring his proposed plan to a fair test, the best way would be to try it alone.

Mr. GORHAM replied that he could not do this, as there was one amendment already before the House; and the only way to get a vote upon his was to attach it as an amendment to the amendment pending.

Mr. JONES, of Georgia, addressed the Chair as follows.

Mr. Speaker: Before I proceed to the examination of the substitute offered by the honorable chairman of the committe on coins, [Mr. WHITE,] and the amendment proposed by his colleague, [Mr. SELDEN,] I will call the attention of the House to the amendment offered by the gentleman from Massachusetts, [Mr. GORHAM,] and adopted as a part of his amendment by the gentleman from New York. Sir, that amendment proposes to make gold and silver coins a legal tender in payment of all debts, in equal amounts—that is to say, one-half of the debt is to be paid in gold, and the other half in silver coins. For

one, I cannot give my vote in favor of this amendment. In my opinion, this Government has no authority by the constitution to make any thing a legal tender in payment of debts. To Congress is given the power "to coin money and regulate the value thereof." To the States is retained the power to make gold and silver, and them only, a tender in payment of debts. I know that some gentlemen believe that when the value of coin is fixed by Congress, it becomes necessarily a legal tender, and that the courts will so decide. To this I offer no objection. If such be the legal effect, be it so. One thing, however, is certain: if such be not the legal effect, Congress has no power to make any coin a legal tender; and if this be the legal and necessary effect, then there is no necessity for Congress to do it. This being the case, it is certainly unnecessary to insert it in this bill.

Sir, the circumstances under which the substitute to the original bill presented by the committee has been offered to the House by the honorable chairman of that committee, require a few observations from me, more especially as that gentleman has been charged by his colleague [Mr. SELDEN] with yielding his own opinion to mine. These remarks are made more in justice to the honorable chairman than to myself.

It will be recollected that when this bill was in Committee of the Whole, I consented it might be reported to the House without amendment; and at the same time gave notice I should move to amend the same when it came before the House, by changing the relative value of gold and silver, from 1 to 15.625, as reported by the committee, to 1 to 16; in other words, to make one ounce of gold worth 16 ounces of silver. Since that time I have conversed fully, freely, and candidly, with the honorable chairman, and he has consented to present the substitute which is now before the House, and which obviates all the objections which I had to the original bill, and meets with my entire approbation. For his courtesy, and this evidence of his regard to my opinion, he has my thanks, and I have no doubt by this course he has also met the wishes of many of his friends.

In making this alteration, it will be seen, however, that the honorable chairman has not so far departed from his own views and principles as a superficial view of the matter might induce you to believe. The original bill proposes to make the eagle or integer worth 1 to 15.625, and the integral parts (which are called subsidiary currency) worth 1 to 16½. Add these two together, and divide them, so as to get the medium, and you shall have 1 to 16 1-16, being one-sixteenth more than the substitute now proposes to make the ratio.

It is admitted by all that the present legal value of gold, compared with silver, to wit: 1 to 15, is too low, and that it ought to be raised; and how much it will be proper to raise it is a question difficult to determine, and on which there may honestly exist much difference of opinion. Fortunately, however, there is not a wide difference between the amendment offered by the gentleman from New York, [Mr. SELDEN,] and the substitute proposed by the chairman of the committee. The amendment proposes 1 to 15.625, as originally inserted in the bill, instead of the ratio, 1 to 16, contained in the substitute. It is my purpose to call the attention and consideration of the House to the remarks of that gentleman in support of his amendment, and in opposition to the substitute of the honorable chairman of the committee on coins.

We have been told by the gentleman from New York [Mr. SELDEN] that the substitute proposes to raise the value of gold two and a half per cent. above its real value. I am at a loss to know how the gentleman has ascertained the real value of gold. If he has fixed on 1 to 15.625, the ratio proposed by his amendment, as the real value, then he is right in saying the substitute proposes to raise it 2½ per cent. above that value. But, sir, this is certainly arbitrary, and I might say gratuitous. It is not yet even the legal value. True, it is proposed by him to make it the legal value; and if the amendment should be adopted, and the bill passed into a law, it may then properly be called the legal value, at least, so far as this country is concerned. And, sir, the commercial value cannot be considered the real value. This would make the real value continually fluctuating. In the English market it ranged, during the last 74 years ending with 1833, from 1 to 14.29 up to 15.96. From 1760 to 1790, its average was 14.48; from 1790 to 1820, its average was 14.73; from 1820 to 1828, its average was 15.77; from 1828 to 1833, its average was 15.88; showing a periodically increasing value from 1760 up to 1833, inclusive. In New York there has been still greater fluctuation, ranging from 3 to 10½ per cent. above the value fixed by our law. The commercial value, then, being so fluctuating, cannot be considered the real value. But if the gentleman, by the real value, meant the commercial value, then, sir, he was mistaken. The gentleman from Massachusetts [Mr. GORHAM] has correctly told you that England is the great bullion market of the world, and that the average commercial value there, for the twelve years ending in 1829, is 1 to 15.77. This is true; but for the last five years, ending with 1833, the average value is 1 to 15.88. A short calculation will show that the ratio of 1 to 16, as proposed by the substitute, is not 1 per cent., being only three-fourths of one per cent. over the commercial value. This being the case, the question is presented, whether it will be proper to fix the value of our gold coins three-fourths of one per cent. above the commercial value in England, the great bullion market of the world?

In fixing upon this ratio, we shall avoid the extremes on either side. In Russia the ratio is 1 to 18; in Denmark 1 to 16½; in Spain 1 to 16; in South America 1 to 16; in France 1 to 15½; and in England, nominally and legally, 1 to 15.2; but really, as we have seen, 1 to 15.88. If, then, we adopt the ratio of 1 to 16, adopted by all America and proposed by the substitute, we shall have taken the middle course, the course of prudence as well as of safety. *In medio tutissime ibis* is the language of wisdom and experience.

The great object to be attained in regulating the relative value of gold and silver is to obtain the circulation of both, if practicable, as the currency of the country. It is well known and admitted that the value of gold, as now fixed by law, is such that, so soon as our gold coins can be obtained from the mint, they are immediately exported; and it is earnestly desired to correct this evil. The gentleman from New York [Mr. SELDEN] has told you, if you adopt the substitute our gold coins will go out of the country when the balance of trade is against us, and when it is in our favor they will return again, and by this operation our merchants will lose two and a half per cent. I have already shown you that the proposed ratio of 1 to 16 is not one per cent. above the commercial value; and if the gentleman is correct in saying our gold coins will return to us again after they have once left us, I can only say, this is "a consummation most devoutly to be wished." Hitherto, like the tracks to the lion's den, they have been all one way—to Europe, and not one solitary eagle has ever made good its cis-Atlantic flight. The desideratum of which we are in search is to keep the coins in the country, and if this ratio will have the additional effect to bring them back again, it must be considered an additional recommendation to the substitute.

The gentlemen from New York [Mr. SELDEN] and Massachusetts [Mr. GORHAM] have told you "that whatever value you may fix upon gold can only affect it here, and can have no effect upon it in foreign countries." That the commercial value will be uninfluenced by any value we may place upon it. This is only partially true, as will be shown hereafter. The value placed upon gold

by the laws of any country, must have a partial effect upon its commercial value in those countries with which it has commercial intercourse.

We have been told by both those gentlemen, that the proposed value is too high, and that it will have the effect to drive the silver coins from circulation, and make them mere merchandise for exportation. I am free to admit, if there were great difference in their value, this effect might be produced. But, sir, the difference in the value of gold and silver, according to the ratio proposed, will be so small (being less than one per cent.) that it will be no more than equivalent to the difference in the expense and risk in transporting them. The gentleman from New York [Mr. Selden] has told you that the difference in the bulk of the two metals will make the risk and expense of shipping silver greater than that of shipping gold. This is correct, and well known to every gentleman upon this floor. And yet with this fact well known, that gentleman proposes to make the value 1 to 15.625, 1 and 3-4 per cent. less than the commercial value of gold. While reading from the table, found in the report of the committee, the various rates which had been recommended, he omitted to read (inadvertently, perhaps,) the ratio recommended by the director of the mint, and that by Mr. Sanford, Senator from New York, when chairman of the committee on coins. Mr. Sanford then proposed to make 1 to 15.9 the relative value. The director of the mint, in 1832, proposed 1 to 15.865, as the ratio, which would make the mint value of the metals equal, according to the commercial value of the years 1829,'30, but which is less than the market value now. But, sir, if you make their mint value equal, the necessary consequence will be, that gold will be selected for exportation, from the increased risk and expense of exporting silver. You must make the mint value of gold a little more than silver to secure an equal circulation of both metals; and can three-fourths of one per cent. be more than will most probably be necessary to effect so desirable an object?

By reference to a table I have before me, containing a statement of actual sales of gold coins in New York, from 1827 to May, 1834, inclusive, I find United States gold coins sold from 10 to 3 per cent. premium, and English gold coins from 10½ to 3½ per cent. premium—being from 6½ to 7 per cent. above the legal value, and the substitute in your table proposes to raise that value six and two-thirds per cent. The sales of Spanish doubloons has been greater. Since the beginning of 1832, up to the end of May, 1834, the average sales of any month has been more than $16, except in one month, and then it was more than $15 90. In two months it averaged more than $17, and the market price in New York, for May last, was $16 37. We have been told by the gentleman from Massachusetts [Mr. Gorham] the price for which doubloons have sold can form no fair criterion upon which to fix the relative value of gold and silver; for that, by a royal ordinance, Spanish doubloons are worth $17 in Cuba, and the increased price of doubloons has been occasioned by the increased legal value in that island. Sir, this is a little at war with the proposition of that gentleman, and the gentleman from New York, [Mr. Selden,] "That whatever value you may fix can have no effect upon the commercial value in other countries." If this proposition be correct, then the value fixed by the royal ordinance can have no effect upon the commercial value in the United States. But I agree with the gentleman from Massachusetts, that the sales in the United States have been affected by the royal ordinance; and they must agree with me, that the legal value of coin will have some effect upon the commercial value, more particularly in those countries where there exists commercial intercourse. That as the legal value of doubloons in Cuba alone has affected the commercial value of them in the United States, so the legal value of United States coins must affect their commercial value in those countries with which we have commercial intercourse. It follows, then, that the low legal value of our gold coins heretofore has operated to keep down the commercial value of those coins, and if we now raise the value of those coins, there will be some increase in their commercial value. The proposition of the gentleman from New York [Mr. Selden] is below the market value. The ratio proposed by the director of the mint is also below the average market value for the last five years. We have seen there is a continual increase in the value of gold, and if the increase of the legal value cause any increase in the market value, it must be evident that one to sixteen (which is about eight-tenths of one per cent. over the mint proposition, and only three-fourths of one per cent. over the present market value) will, in a short time, be only equal to the increased market value. If we stop short of this, we shall soon be compelled again to increase the value of that metal, or to struggle with the same difficulties which now prevent the circulation of our precious metals.

You have been told that this alteration of the value of gold will be a violation of the compromise of the tariff of the last session. This is most strange. By that very act the pound sterling is estimated in the price of cotton goods at $4 80, while the sovereign or pound sterling of gold is only worth $4 56—and when you are asked to raise the value of the sovereign or pound sterling of gold to the value of the pound sterling's worth of cotton goods, you are told it will be a violation of the compromise.

The gentleman from Massachusetts has told you that this bill will not prevent the circulation of bank notes, as has been expected; but that, while the banks are good, people will take the bank notes, from the greater convenience of carrying them. Sir, I am well aware such will be the case to a great extent—and this is a most conclusive argument with me, that the ratio proposed by this substitute is not too high, and that if you adopt a lower one, the gold will not only be supplied by bank notes, in the circulation of the country, but will be continually exported, as bullion, as fast as they are coined; and we shall have all the expense of the mint, as we have heretofore, without any corresponding benefit.

But the gentleman from New York [Mr. Selden] considers this increase of the value as a tariff upon gold, and expresses the hope that the gentlemen from the South have abandoned their opposition to the measure. The gentleman is mistaken. This is not a tariff, nor have the gentlemen from the South been opposed to a tariff—a constitutional tariff, for raising revenue. They are, and have been, opposed to a tariff for the protection of domestic manufactures. They consider such a tariff unconstitutional, unjust, and oppressive—well calculated to alienate the affections of the people of the South from this Government. They do consider it an incubus upon the system, paralyzing the honest industry of the South—a perfect vampyre feeding upon their vitals, and sucking the heart's blood of the people. Its advocates know that it is unconstitutional; that they abuse a constitutional power for a purpose which they know is unconstitutional, and which they dare not avow. They are compelled to cover the real object of the extravagant duty. While it is constitutional to impose duties for revenue, they know it is unconstitutional to impose them for protection. They are careful the title of the act shall be for raising revenue, and dare not declare by its title that it is for the protection of manufactures. They are well aware the Supreme Court cannot go beyond the title and bill to inquire into the motives for imposing those duties, and they well know that a bill laying duties for the protection of manufactures will be declared unconstitutional. "This bill is a tariff upon gold." A tariff upon gold! If it were, it has one thing to recommend it—of which the tariff that we complain of

is wholly destitute—it is constitutional. We are acting within the legitimate sphere of Congress in fixing a value upon coins; and three-fourths of one per cent. is a poor pittance with which to purchase the South and bring them to the support of an unconstitutional tariff. No, sir; they are not thus to be bought. They cannot be induced to violate the constitution, if, instead of three-fourths of one per cent. you should offer them fifty per cent., and thus plunder the people of the other States to fatten and enrich themselves. Mr. Speaker, I regret I have been drawn into this subject. A compromise has now been made of this unpleasant question, and I had hoped it would not be disturbed, though I have awful fears, if the system of internal improvement goes on, which I have seen urged upon this House, we shall see the attempt made to renew that disastrous system which had well nigh severed this Union and blasted all our prosperity.

But we have been told, by the gentleman from New York, [Mr. SELDEN,] if you pass this substitute, the Bank of the United States will make $800,000. There must be some doubt of this, else, I presume, the gentleman would have been found advocating instead of opposing it. He seems to have taken great interest in the interests of the bank, and to have taken it under his peculiar care. Sir, it is not my intention to make any reflection upon that gentleman. He believes that institution beneficial to the country, and it is not surprising that he should endeavor to advance its interests. I believe it destructive of the best interests of the country, and it should not excite surprise that I should be found in opposition to it. I entirely agree with the gentleman from Massachusetts, that the value which this substitute fixes upon gold will not prevent it from being exported when the necessities of commerce require its exportation. I am well satisfied that no value which we could fix by law would do so. If we make the eagle worth twenty, instead of ten dollars, when the exigencies of commerce demand its exportation, it must go.

The gentleman from Massachusetts [Mr. GORHAM] has said that the South American dollars which come to New Orleans, instead of being scattered over the United States, will be immediately exported to Europe. Surely, sir, the gentleman has forgotten that Spanish and South American dollars are worth one-half to three-quarters per cent. more than dollars of the United States; and it is within the knowledge of all who hear me, that Spanish and South American dollars furnish all our present circulation, notwithstanding the difference in value between them and the dollars of the United States. I have already shown that the value of gold, by this substitute, will only be $\frac{3}{4}$ of one per cent. over the value of silver; and that the difference of the risk and expense of transportation will nearly or quite equal this difference; and if the Spanish and South American dollars have not been driven from the country by the difference in value between them and the dollars of the United States, we need not fear any such consequences from this bill.

You have been told by the gentleman from New York that silver is now abundant, and if this substitute be adopted, it will soon be scarce. I apprehend a much better cause can be given for the plenty and scarcity of specie than the passage of any law. It will be recollected, that for a short time previous to the examination of the Bank of the United States in 1832, that institution had exported some five or six millions of dollars, and that some millions have been imported within the last three or four months. A very little reflection will teach us why it was exported then, and imported at this time. It will be recollected that, just before the exportation of specie in 1831, the Bank of the United States had extended her discounts from forty-two to seventy millions. Her notes were then plenty, and, as the gentleman from Massachusetts has told you, the bills of good banks will be preferred to dollars, they could therefore be exported. Within the last year the bank has reduced her loans to fifty-four millions. Her notes have become scarce, and, therefore, the dollars must be imported to supply their place; and it will always be in the power of the bank to produce this plenty and scarcity of specie, to prevent its exportation, and to demand its importation. The passage of this substitute cannot entirely control these operations; but it will go far to furnish a circulating medium, well calculated to supply the wants and meet the exigency of the country. As the Bank of the United States will soon expire by its own limitation, something which will pass current every where is imperiously demanded, to supply the place of her notes which will be taken out of circulation. Nothing can do this so well as gold. It has an intrinsic value which is every where acknowledged. It can easily be conveyed from place to place without inconvenience, and he who is furnished with this coin has no fears of the solvency of banks or the depreciation of their notes.

Mr. GILLET said that he must congratulate the House and nation, that Congress, near the close of a session of seven months, devoted, to a great extent, in debates on the subject of the currency, was at last seriously engaged in discussing an interesting and important branch of an undoubted constitutional currency. The interests and wishes of the people of the United States demanded our prompt action upon this subject, and he could discover no reason why those interests and wishes should not be responded to in a satisfactory manner. This bill, as proposed to be amended by his colleague, [Mr. WHITE,] fixes the value of our gold coins, as compared with silver, at 16 to 1, and to coin eagles, half eagles, quarter eagles, and dollars. Another colleague of his [Mr. SELDEN] had proposed an amendment to the amendment, which required these several coins to be of a greater weight. A gentleman from Massachusetts [Mr. GORHAM] had proposed a modification of the amendment to the amendment, which required, in the payment of all sums over five dollars, that one-half should be paid in gold and the other in silver. To this last amendment he could not yield his assent. It was wholly arbitrary and unjust, and would bear with peculiar hardship upon farmers, shopkeepers, and small dealers, who collected in their business small sums, but who might be compelled to pay out in large ones. It might also apply to collectors of taxes, and others, who collect and disburse the public revenue. An individual might be compelled to pay a large debt at a distant place, and certainly he ought to be allowed the privilege of paying it in that coin which he could the most easily transport to the place of payment. He could see no good that could possibly result from this proposition, and he hoped it would not be adopted by the House. There, then, remained but two questions of importance to pass upon. First, is it expedient to increase the circulation of gold in the country? and, second, is 16 to 1 the proper proportion between gold and silver?

As to the first question, Mr. G. said he thought the true interests of the country called for an increased circulation of the precious metals, and particularly of gold, which was light and portable, and would prove convenient in the transaction of business, and he was confident the voice of the American people demanded it. He was aware that we had, on another occasion, been told of a currency better than gold and silver, which had been furnished by a corporation. He entertained no such opinion of the productions of any corporation. He preferred a currency recognised by and resting upon the laws of the Union, the value of which should not depend upon the good or ill fortune of a corporation, or its ability to pay its debts, and which should not vibrate, contract, or expand, with the uncontrolled will of a soulless body. Our constitution had given us the "power to coin money and

regulate the value thereof, and to regulate the value of foreign coins." This clause of the constitution confers all the power Congress has over this subject. It had been aptly called "a hard-money power." Under this, it was our duty to declare the value of foreign gold and silver, and make such coins as the wants of our country require. It appeared to him to be the duty of Congress to provide that which was most convenient, and such as would be a legal tender in payment of debts. Congress had no power to make any other currency, and if it possessed it, its exercise would be inexpedient. He said he was aware that banks had become so interwoven with the transactions of the country, that it might be impossible to return to an entire specie circulation, if it were expedient to do so. Large transactions among commercial men and bankers might well be in large bills, the representatives of money; but all the minor channels of circulation ought to be filled with gold and silver. Without a broad basis of the precious metals, a secure paper circulation could not be sustained. He hoped to see all small bills retire from circulation, and their place filled with coins. This would place in the hands of the poor and laboring classes a safe and sound currency, which would remain unaffected by the crumbling of rotten banks, and the fearful agitations of panics. Then the humble individual whose all might consist of a few dollars would not be injured or alarmed by the cry of partisans and demagogues on the subject of currency. If our circulation had been, during the past year, principally of coins, we should not have heard people advised to demand specie on State bank paper, because all paper but that of the United States Bank was nearly worthless. Nor should we have heard much of panic and apprehended danger. All would have been quiet on that point. Under the paper system, banks have broken, and, he would ask, on whom did the loss most severely fall? Upon the poor, who understood little of the condition and credit of banks. The wealthy usually foresaw the evil and protected themselves. He feared this had even been done at the expense of the poor, but he hoped not often. It was due to the American people that this Congress should change the order of things, and give to the people a currency which should not fluctuate in value, as corporations might manage well or ill, or be fortunate or unfortunate. We ought to give them a currency that should be as immutable as the metals of which he proposed to make it.

Would a farmer be willing to have the title to his farm depend upon the good or ill fortune of a corporation, and upon the honesty and integrity of some thirteen men whom he could not control, and whom he did not know? Would he not prefer its resting upon the laws of the Government? He then submitted that a currency of coins, established by the laws of the land, and having an intrinsic value, must be preferable to one depending upon the contingencies he had suggested. He thought the people of the United States generally desired this improvement in the currency, which would render their transactions more certain and more beneficial.

Mr. G. said, in circulation, paper was the antagonist of gold, and our gold being at present undervalued, the paper had driven it out of circulation. And our silver was too bulky and cumbersome to be retained in general use. From its light and convenient form, gold would, if properly valued, obtain a very general circulation in all limited transactions.

Mr. G. said it had been alleged that a specie currency would be found impracticable, and that a paper one, of a general and unlimited credit, was necessary, among other things, to regulate exchanges. He thought this ground untenable. He had read a report made by Mr. Hemphill, of Pennsylvania, to this House, in 1823, in response to a memorial from the Bank of the United States, wherein he states: "In reference to any two given places, when the balance of trade is against the one, gold and silver there will be of less value than at the other, by the expense of transportation; and the exchange will always be about equal to that expense. The nature of trade will keep this balance alternating, and it may be, generally, against one place in a certain direction, while, at the same time, it will be in its favor in another direction; but the design of making paper circulation for the purpose of exchange, better than the specie it represents, appears to be in a great degree fallacious. The bank can never equalize exchange; the expense of exchange must be borne by the debtors, in the debtor part of the country, and every attempt to give it a different direction will be baffled. It is alien to the inflexible laws of trade, and cannot be realized."

Mr. G. said he concurred in these sentiments; they established, conclusively, that the bank was unnecessary to regulate the price of exchange, and that the price would be about the expense of transporting your coins. Then, so far as exchange is concerned, what coins ought to be introduced, so far as it can be done by a law of Congress, and what would be the most beneficial to the people? He would answer, gold coins, the expense of transporting which is only about one-sixteenth as much, on a given number of dollars, as on silver. This would materially lessen the price of exchange.

In every point in which he had viewed this subject, he deemed it our duty so to shape this bill as to give the country, as far as possible, a gold currency. It was due to the character of the nation to relieve it from the stigma of having a swollen, vicious, and fluctuating currency, which was not a legal tender in payment of debts, and which caused the price of our property to fluctuate with every shifting breeze. The adoption of the proposition of his colleague [Mr. White] would accomplish the object which he so much desired, and which, he believed, would prove advantageous to the nation.

Mr. G. said the debate, on the present occasion, had principally been on the question of proportion of gold to silver. The relative value differed, in different parts of the world, from fourteen to one to eighteen to one. The countries from whence we receive most of our gold and silver have adopted the proportion of sixteen to one. He alluded to the present and former dominions of Spain. He believed this to be the right proportion. This proportion had been objected to by his colleague, [Mr. Selden,] and the gentleman from Massachusetts, [Mr. Gorham,] on the ground that the mercantile value, as bullion, was only about 15.75 to 1. From the best information he could obtain, this value fluctuated from 15.75 to 1 to 16 to 1. The latest prices in England were 15.83 to 1. But admit that, in a city, say New York, for the purpose of local use, 15.75 to 1 was the true intrinsic value, he contended that, for purposes of general use and circulation as coin, throughout the country, gold would have the preference over silver at 16 to 1, on account of its limited weight and bulk, and its conveniences in travelling and business. When the cost of transportation is considered, gold being only one-sixteenth as much as that of silver, it would have the advantage in all cases where there was any considerable land carriage. It would be found that gold would have an advantage over silver of about one-half of one per centum on every hundred miles of such transportation. At that rate, in all cases of land transportation of four hundred miles, gold, at 16 to 1, would bear a premium. This Government, in its payments to our distant troops, and to the western Indians, would be the gainer by paying a premium of two per centum for gold, instead of transporting silver for that purpose.

Mr. G. said this convenience, in carrying gold wherever we might go, and its being a certain tender for all we

might owe, and its possessing intrinsic value throughout the world, would always give gold a preference over silver, or any paper representative of coin. He had no doubt but every member of Congress would willingly receive gold coins, at 16 to 1, in pay for his services this session, in preference to receiving silver. From statements he had seen, he thought there could be no doubt that the average rate of premium for gold in our large cities would range so high as to warrant our going for a proportion quite as high as 16 to 1. He thought the introduction of gold coins into general use would prove highly advantageous to the newly-settled parts of the country, and would not occasion injury to the old. The establishing such a proportion as to give silver the advantage would defeat the very object in view, by keeping gold, as heretofore, out of circulation, and continuing the use of bills, which might, one day, pass at the rates named on their face, and on the next might not be worth one-tenth part of that sum. The argument of his colleague, [Mr. SELDEN,] that we ought to keep the value of gold down, as we were producers of the article, and because our most extensive transactions were with England, where gold was the principal currency, did not strike him as making in favor of the position the gentleman had taken; but, on the contrary, he thought, inasmuch as we were producers of this metal, we might well make it our principal currency at home. Our currency here cannot control our transactions abroad. There, our coins had been, and would continue to be, mere bullion, and sold at their intrinsic value. No statute we can make will increase or diminish the intrinsic value of gold and silver, here or elsewhere; but we can make a currency of coins that shall be uniform as a standard of value, and which shall give permanency and stability to that measure. A farm which is worth a pound of pure gold will still be worth that quantity of gold, whether such gold is coined as sixteen to one of silver, or at a hundred to one. The object to be attained is a certain standard, which shall not, by its constant changes, raise or lower the price of such articles as we have to exchange, or affect outstanding debts. Let us fix our coins as may be most convenient for our fellow-citizens, and other things will find their proper level, and adjust themselves to them as the standard or measure of value.

Mr. G. said there was but one further remark which he would make. The gentleman from Massachusetts had called to his aid, against the proposition of sixteen to one, the United States Bank. He understood him to say that it was probable, if we adopted this proportion, the bank would call in its discounts in order to collect in silver, which was worth more than our gold would hereafter be; and, in that way, the people would be injured and distressed. He, Mr. G., had no fears on this ground. He, however, must thank the gentleman for the admission of the manner in which the bank created distress. We had heard little else for near seven months from the friends of the bank, but panic and distress; which had been charged to the action of the Executive. But it now seems that the action of the bank can produce that effect. That it had unnecessarily called in its debts in certain points, and in that way produced a portion of this panic and distress, was, in his opinion, undoubtedly true; though he thought the nation indebted to this Capitol for a share of this panic and consequent distress; that the bank had closed its doors upon our committee, and concealed its secret orders and doings, was known to the world; and we had a right to infer they would not bear scrutiny. And now its ability to produce evil is held up to us as a terror against making this gold currency, which is demanded alike by the dictates of sound policy and the voice of an intelligent people.

The gentleman, no doubt, gave us his best deliberations; but his conclusions were precisely such as he, Mr. G., should have expected from the bank, if it desired to render our efforts, in giving the country a convenient constitutional currency, entirely unavailing; so that it might present to a future Congress the failure of this attempt, as an important argument in favor of a recharter. Whether the bank did intend to defeat our efforts, the country would determine after witnessing the course of events in Congress. If the friends of that institution should resist the effort to give the nation a gold currency, the people would draw but one conclusion, and they would place the responsibility where it belonged. He hoped, however, that this bill might be acted upon, without being connected with the fortunes of the bank, even though the effect of the measure might deprive the advocates of that corporation of an argument in its favor. The country imperiously called for such legislation as shall restore the use of a constitutional currency, and his vote would be uniformly given with the view of producing that result.

Mr. BINNEY said that, without occupying the ground which had been taken by the gentlemen who preceded him, he would offer some remarks upon the questions arising out of the change in the bill proposed by the gentleman from New York, [Mr. WHITE.] He would endeavor, at the same time, not to name the Bank of the United States in connexion with the subject, as he had often remarked that the mention of this name disturbed the course of argument of worthy gentlemen on this floor, who, in general, had no difficulty in adhering to the subject of discussion. What the Bank of the United States had to do with the matter he did not know; but what he did know was, that banks of all names and descriptions could, and probably would, make a profit out of a derangement in the proportional value of the gold and silver coins, and, therefore, that it was the duty of the House not to give them the opportunity. Upon the subject of a tender in both metals, proposed by the gentleman from Massachusetts, [Mr. GORHAM,] he was not at present prepared to act definitively. If now called on to decide, he should probably vote against it, though he had no doubt, from his reliance on the sagacity and judgment of that gentleman, that, if he thought fit to press the measure, he would put the House in possession of strong reasons for its adoption. From one remark, to which this proposition of tender had given rise, he deemed it his duty to express his entire dissent. The gentleman from Georgia [Mr. JONES] had denied the authority of Congress to declare any thing a legal tender, and had also denied that a declaration of the legal value of coins by Congress would have the effect of making them a legal tender. If this remark had any foundation whatever, in law or in the constitution, it might follow that, by the foreign silver coins act, just passed, Congress had made provision for a succession of law suits, until the States should pass tender laws, or the highest judicial tribunal in the Union should settle the question. For himself, he would say that, if the state of his health had not compelled him to be absent when the silver coins bill was passed, he should have voted against any change of that language to which we had been accustomed for more than forty years, though by no means from a belief that the words substituted were not of perfectly equivalent import. He entertained no doubt whatever, that Congress had power to make gold and silver coins a legal tender, at such value as they chose to establish; nor that words declaring those coins to be of a certain legal value, did in effect make them a legal tender at that value. He knew that a proposition which had been suggested elsewhere, to restore to the foreign silver coins bill the original language of our coin laws, did not lead to the amendment, from the universal opinion that no amendment was necessary. The power of Congress was to coin money, and to regulate the value thereof, and of foreign coin.

regulate the value thereof, and to regulate the value of foreign coins." This clause of the constitution confers all the power Congress has over this subject. It had been aptly called "a hard-money power." Under this, it was our duty to declare the value of foreign gold and silver, and make such coins as the wants of our country require. It appeared to him to be the duty of Congress to provide that which was most convenient, and such as would be a legal tender in payment of debts. Congress had no power to make any other currency, and if it possessed it, its exercise would be inexpedient. He said he was aware that banks had become so interwoven with the transactions of the country, that it might be impossible to return to an entire specie circulation, if it were expedient to do so. Large transactions among commercial men and bankers might well be in large bills, the representatives of money; but all the minor channels of circulation ought to be filled with gold and silver. Without a broad basis of the precious metals, a secure paper circulation could not be sustained. He hoped to see all small bills retire from circulation, and their place filled with coins. This would place in the hands of the poor and laboring classes a safe and sound currency, which would remain unaffected by the crumbling of rotten banks, and the fearful agitations of panics. Then the humble individual whose all might consist of a few dollars would not be injured or alarmed by the cry of partisans and demagogues on the subject of currency. If our circulation had been, during the past year, principally of coins, we should not have heard people advised to demand specie on State bank paper, because all paper but that of the United States Bank was nearly worthless. Nor should we have heard much of panic and apprehended danger. All would have been quiet on that point. Under the paper system, banks have broken, and, he would ask, on whom did the loss most severely fall? Upon the poor, who understood little of the condition and credit of banks. The wealthy usually foresaw the evil and protected themselves. He feared this had even been done at the expense of the poor, but he hoped not often. It was due to the American people that this Congress should change the order of things, and give to the people a currency which should not fluctuate in value, as corporations might manage well or ill, or be fortunate or unfortunate. We ought to give them a currency that should be as immutable as the metals of which he proposed to make it.

Would a farmer be willing to have the title to his farm depend upon the good or ill fortune of a corporation, and upon the honesty and integrity of some thirteen men whom he could not control, and whom he did not know? Would he not prefer its resting upon the laws of the Government? He then submitted that a currency of coins, established by the laws of the land, and having an intrinsic value, must be preferable to one depending upon the contingencies he had suggested. He thought the people of the United States generally desired this improvement in the currency, which would render their transactions more certain and more beneficial.

Mr. G. said, in circulation, paper was the antagonist of gold, and our gold being at present undervalued, the paper had driven it out of circulation. And our silver was too bulky and cumbersome to be retained in general use. From its light and convenient form, gold would, if properly valued, obtain a very general circulation in all limited transactions.

Mr. G. said it had been alleged that a specie currency would be found impracticable, and that a paper one, of a general and unlimited credit, was necessary, among other things, to regulate exchanges. He thought this ground untenable. He had read a report made by Mr. Hemphill, of Pennsylvania, to this House, in 1823, in response to a memorial from the Bank of the United States, wherein he states: "In reference to any two given places, when the balance of trade is against the one, gold and silver there will be of less value than at the other, by the expense of transportation; and the exchange will always be about equal to that expense. The nature of trade will keep this balance alternating, and it may be, generally, against one place in a certain direction, while, at the same time, it will be in its favor in another direction; but the design of making paper circulation for the purpose of exchange, better than the specie it represents, appears to be in a great degree fallacious. The bank can never equalize exchange; the expense of exchange must be borne by the debtors, in the debtor part of the country, and every attempt to give it a different direction will be baffled. It is alien to the inflexible laws of trade, and cannot be realized."

Mr. G. said he concurred in these sentiments; they established, conclusively, that the bank was unnecessary to regulate the price of exchange, and that the price would be about the expense of transporting your coins. Then, so far as exchange is concerned, what coins ought to be introduced, so far as it can be done by a law of Congress, and what would be the most beneficial to the people? He would answer, gold coins, the expense of transporting which is only about one-sixteenth as much, on a given number of dollars, as on silver. This would materially lessen the price of exchange.

In every point in which he had viewed this subject, he deemed it our duty so to shape this bill as to give the country, as far as possible, a gold currency. It was due to the character of the nation to relieve it from the stigma of having a swollen, vicious, and fluctuating currency, which was not a legal tender in payment of debts, and which caused the price of our property to fluctuate with every shifting breeze. The adoption of the proposition of his colleague [Mr. White] would accomplish the object which he so much desired, and which, he believed, would prove advantageous to the nation.

Mr. G. said the debate, on the present occasion, had principally been on the question of proportion of gold to silver. The relative value differed, in different parts of the world, from fourteen to one to eighteen to one. The countries from whence we receive most of our gold and silver have adopted the proportion of sixteen to one. He alluded to the present and former dominions of Spain. He believed this to be the right proportion. This proportion had been objected to by his colleague, [Mr. Selden,] and the gentleman from Massachusetts, [Mr. Gorham,] on the ground that the mercantile value, as bullion, was only about 15.75 to 1. From the best information he could obtain, this value fluctuated from 15.75 to 1 to 16 to 1. The latest prices in England were 15.83 to 1. But admit that, in a city, say New York, for the purpose of local use, 15.75 to 1 was the true intrinsic value, he contended that, for purposes of general use and circulation as coin, throughout the country, gold would have the preference over silver at 16 to 1, on account of its limited weight and bulk, and its conveniences in travelling and business. When the cost of transportation is considered, gold being only one-sixteenth as much as that of silver, it would have the advantage in all cases where there was any considerable land carriage. It would be found that gold would have an advantage over silver of about one-half of one per centum on every hundred miles of such transportation. At that rate, in all cases of land transportation of four hundred miles, gold, at 16 to 1, would bear a premium. This Government, in its payments to our distant troops, and to the western Indians, would be the gainer by paying a premium of two per centum for gold, instead of transporting silver for that purpose.

Mr. G. said this convenience, in carrying gold wherever we might go, and its being a certain tender for all we

might owe, and its possessing intrinsic value throughout the world, would always give gold a preference over silver, or any paper representative of coin. He had no doubt but every member of Congress would willingly receive gold coins, at 16 to 1, in pay for his services this session, in preference to receiving silver. From statements he had seen, he thought there could be no doubt that the average rate of premium for gold in our large cities would range so high as to warrant our going for a proportion quite as high as 16 to 1. He thought the introduction of gold coins into general use would prove highly advantageous to the newly-settled parts of the country, and would not occasion injury to the old. The establishing such a proportion as to give silver the advantage would defeat the very object in view, by keeping gold, as heretofore, out of circulation, and continuing the use of bills, which might, one day, pass at the rates named on their face, and on the next might not be worth one-tenth part of that sum. The argument of his colleague, [Mr. SELDEN,] that we ought to keep the value of gold down, as we were producers of the article, and because our most extensive transactions were with England, where gold was the principal currency, did not strike him as making in favor of the position the gentleman had taken; but, on the contrary, he thought, inasmuch as we were producers of this metal, we might well make it our principal currency at home. Our currency here cannot control our transactions abroad. There, our coins had been, and would continue to be, mere bullion, and sold at their intrinsic value. No statute we can make will increase or diminish the intrinsic value of gold and silver, here or elsewhere; but we can make a currency of coins that shall be uniform as a standard of value, and which shall give permanency and stability to that measure. A farm which is worth a pound of pure gold will still be worth that quantity of gold, whether such gold is coined as sixteen to one of silver, or at a hundred to one. The object to be attained is a certain standard, which shall not, by its constant changes, raise or lower the price of such articles as we have to exchange, or affect outstanding debts. Let us fix our coins as may be most convenient for our fellow-citizens, and other things will find their proper level, and adjust themselves to them as the standard or measure of value.

Mr. G. said there was but one further remark which he would make. The gentleman from Massachusetts had called to his aid, against the proposition of sixteen to one, the United States Bank. He understood him to say that it was probable, if we adopted this proportion, the bank would call in its discounts in order to collect in silver, which was worth more than our gold would hereafter be; and, in that way, the people would be injured and distressed. He, Mr. G., had no fears on this ground. He, however, must thank the gentleman for the admission of the manner in which the bank created distress. We had heard little else for near seven months from the friends of the bank, but panic and distress; which had been charged to the action of the Executive. But it now seems that the action of the bank can produce that effect. That it had unnecessarily called in its debts in certain points, and in that way produced a portion of this panic and distress, was, in his opinion, undoubtedly true; though he thought the nation indebted to this Capitol for a share of this panic and consequent distress; that the bank had closed its doors upon our committee, and concealed its secret orders and doings, was known to the world; and we had a right to infer they would not bear scrutiny. And now its ability to produce evil is held up to us as a terror against making this gold currency, which is demanded alike by the dictates of sound policy and the voice of an intelligent people.

The gentleman, no doubt, gave us his best deliberations; but his conclusions were precisely such as he, Mr. G., should have expected from the bank, if it desired to render our efforts, in giving the country a convenient constitutional currency, entirely unavailing; so that it might present to a future Congress the failure of this attempt, as an important argument in favor of a recharter. Whether the bank did intend to defeat our efforts, the country would determine after witnessing the course of events in Congress. If the friends of that institution should resist the effort to give the nation a gold currency, the people would draw but one conclusion, and they would place the responsibility where it belonged. He hoped, however, that this bill might be acted upon, without being connected with the fortunes of the bank, even though the effect of the measure might deprive the advocates of that corporation of an argument in its favor. The country imperiously called for such legislation as shall restore the use of a constitutional currency, and his vote would be uniformly given with the view of producing that result.

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They could, therefore, make a rule or law for the value between all the citizens, and in all their transactions; and this was making a legal tender. The first law on the subject of coinage, by declaring that the coins which it authorized should be a legal tender, at the rates therein fixed, declared their legal value in every case in which money was an instrument in the execution of a contract, according to the law of the contract, and it did no more. This it had a perfect right to do. It was the necessary effect of a legal regulation of the value of coins, that they might be legally offered at that value, whenever money was due by contract; and this was their legal tender. It had surprised him to hear a different opinion stated by the member from Georgia, and it might make it material to propose a return in this bill to the original language, unless it should be found that this opinion was confined to that gentleman.

The important matter before the House, the relative value of gold and silver, had now been brought up for consideration in a way in which he could not help regarding as altogether extraordinary. Indeed, the manner in which the House received the proposition was so; for although the effect of a change might be to disturb contracts and prices, and the silver currency of the country, to a great degree, and although it was known that the ratio of 16 to 1, now proposed by the gentleman from New York, was not sustained by any thing that had been ever said by that gentleman before, or by any committee of this House, yet much of the discussion of this morning had passed without the presence of fifty members, a circumstance indicating either great indifference or entire determination upon the matter. It could not have escaped notice, that after the honorable chairman of the committee on coins had given years to the consideration of this matter, and had, at the end of his elaborate reports, presented a bill establishing the ratio of 1 to 15.625 or 15⅝, and a subsidiary currency in both the metals deteriorated from 5 and a fraction to 3 and a fraction per cent., and had passed it through a Committee of the Whole, without alteration, he had now, without any previous notice, abandoned his whole bill, ratio, subsidiary currency and all, and had come out with a simple enactment for making gold coins in the ratio to silver of one to sixteen, or thereabouts. The honorable chairman had never supported nor suggested such a ratio in any of his reports. In one of them he had said that "the alteration in the quantity of gold representing ten dollars, from 247½ grains to 233½ grains," (and the proposed alteration was still greater, by one and a half grains,) "was an actual reduction of six per cent. from the previously-existing and long-prevailing measure of contracts;" and he had admitted the justice of the remark, that "such a change could not be made without disturbing the balance of intrinsic value, and making every acre of land, as well as every bushel of wheat, of less actual worth than in time past." He had also stated it as the final opinion of the committee, that the rate proposed by the Secretary of the Treasury of 1 of gold for 15.625 of silver, was the utmost limit to which the value could be raised, with a due regard to a paramount interest, the preservation of our silver as the basis of circulation. The whole mass of reports might be considered as mainly intended to show "that the standard of value ought to be legally and exclusively, as it was practically, regulated in silver." The chairman now proposed, without giving any reasons at all, an eagle of 232 grains of fine gold, and a consequent ratio of 1 to 16, to the probable if not certain overthrow of the silver basis. By this extraordinary step he had given away his entire expenditure of labor in those reports, and the House had been left without the aid of any committee whatever. If this had occurred at an earlier stage of the session, the whole subject ought to have been recommitted, that the reasons for the gentleman's change of opinion might have been submitted to the House, and deliberately considered, before acting in so critical a concern. The higher ratio had moreover been proposed in this extemporary manner, at a time when it was known to the gentleman from New York that the present price of American gold in New York and Philadelphia did not exceed two per cent. above par, whereas his amended bill proposed to raise it to six and two-thirds; and it was recommended to the House, immediately after a bill had passed both Houses, to bring in silver, by giving a legal value to the dollars of Mexico, Peru, Chili, and Central America, and the effect of any material overvaluation of gold would be to send them out again. And how has this change of opinion been brought about? We were indebted to the gentleman from Georgia [Mr. Jones] for the discovery. It had occurred, as that gentleman had alleged, in consequence of a conversation with him, and, it might be supposed, for the reasons which he had communicated to the House in justification of his own views this morning. Those reasons were deserving of consideration. It was worth inquiry, whether they ought to have produced the change which had been attributed to them, and with this view they should be repeated and briefly examined before the House. The first was the most remarkable that could have occurred to any one. The member from Georgia had endeavored to justify his ratio of 1 to 16 by the argument, that the ratio originally proposed by the chairman of the committee on coins was 1 to 15.625; that the debased subsidiary currency, being 5½ worse than the standard, gave a higher ratio than 1 to 16; and that, by splitting the difference, the ratio was made 1 to 16 and an eighth, of which the eighth had been rejected in a spirit of moderation. And what would have been the consequence, if the honorable chairman had made his subsidiary currency 20 per cent. worse, instead of 5? Or what had the character of that subsidiary currency, debased entirely at the pleasure of the chairman who proposed and had abandoned it, to do with the fair proportional value of gold and silver? The subsidiary currency was a most objectionable project, and had been properly abandoned by the chairman. It was without support in the example of England, which had kept its gold standard undebased; whereas this plan purported to give us a debased currency in each of the metals; but whether good or bad, it indicated great distress in the argument of the gentleman from Georgia, to be forced to resort to it to make out his ratio. Another reason suggested was, that the compromise bill of 1833 had fixed the value of the pound sterling at 4.80, and therefore the gentleman from Georgia deemed proper to do the same by the proposed ratio. The custom-house valuation of the pound sterling had as little to do with the subject as the subsidiary currency. It was an estimated value by which to calculate the duties on imports, and was perhaps derived from the supposed value of the pound sterling in silver dollars at their market price; but it was not dependent on or connected with the relative value of gold and silver; and if it were, the compromise valuation of the pound sterling was more than two per cent. lower than the gentleman's ratio, and would not give a higher ratio for this bill than 1 to 15.77 or 15.78. This reason, therefore, was as defective as the former. A third reason assigned by the gentleman was, that the price of British gold in New York had for some years, according to a manuscript price current produced by him, varied from 4 to 10 per cent. advance, the mean of which was seven, and the proposed increase per cent. was six and two-thirds. But, unless the times were taken in connexion with the prices, the average would be wholly deceptive. An advance of 4 for nine years, and of 10 for one, would give for the whole time an average of 4 and six-tenths, and not of 7. The same price currents, moreover, showed that these premiums were given for British gold, and not for American, which

by the same paper had been almost uniformly three per cent. worse. This fact, however, though it defeated the argument, was one for which he was not prepared. He was not disposed to admit that such a difference had prevailed with any thing like the uniformity stated in the paper; and, indeed, what reliance the paper deserved, in any respect, it was impossible to say. It was entirely unauthenticated. If these had been the reasons which had induced the chairman of the committee to surrender his own well-considered ratio to the gentleman from Georgia, it was not probable that, by the mere force of reason, many persons would be brought to concur with him.

In his judgment, (Mr. B. said,) there was nothing in these or in any other suggestions that had been made, to justify the extreme valuation now proposed by the chairman of the committee on coins. In regard to this or any other change in the value, there were two remarks that he would submit to the House. In the first place, he did not entertain the opinion that any change would materially increase the metallic circulation of the country. Gold, however estimated, would not, to any extent, take the place of bank paper, while bank paper was permitted by law to circulate as it now did. A traveller might be induced to take gold for his expenses, if he could not obtain paper that would travel with him without loss; and while gold should be a novelty, a few more pieces might be seen in the pockets of the citizens; but the increase of the mass in circulation from these causes would not be considerable. Wherever gold should come, in the present condition of our bank paper, it would in general displace silver, without adding to it. This was the first remark he had to submit. The other was, that no change in valuation would produce any considerable increase of specie in the banks. Under the proposed change they would have a greater amount of gold, but at the same time they would have a less amount of silver. Nothing would induce the banks, nor could any thing compel them, to keep more of either metal on hand than was necessary to sustain their paper circulation; and what they did keep on hand, whether it should be gold or silver, would be of the same use to them and to the country. Little or nothing was to be gained by the substitution of gold for silver. The mass would not be augmented, though its complexion might be changed. It was, therefore, a delusion to suppose, as had been proclaimed in the public papers, that this bill would give a specie currency to the country; neither would it give increased stability to bank paper. The extent of its effect would be, if gold should be rightly valued, to give the country some more gold than it previously had, and to about the same extent to diminish the silver; and it would also give to the holder of gold its real value immediately, in every transaction, without compelling him to seek it through a transaction with a broker. If overvalued, its effect would be to enable a debtor to pay his present debts with less than he owed, and to that extent, consequently, to defraud his creditor; and it would, if considerable, place silver exactly in the condition in which gold now was, and make it an article of trade instead of currency. In the end, we might have to change the relative vulue of the two metals to keep silver here, as we now proposed to do to keep the gold. It had not, indeed, occurred to him that it was as important as some had thought to raise gold even to what he admitted to be its true proportional value. The real value had always been obtained, and would continue to be obtained, by the American holder, in the shape of a premium in the market, and this without any law for the purpose, except the law of commercial exchanges. Indeed, it was from this very premium that its true value, when compared with silver, was obtained. It would facilitate the gain of this premium by the holder of gold, to raise the legal value of gold to the same extent or thereabouts, and to this extent he was willing to go, but not beyond it.

The whole question for the House was, then, whether the proposed ratio, which in round numbers might be stated at 1 to 16, did not overvalue the gold; and this was a simple question of fact, depending upon evidence.

The gentleman from Georgia admitted that the proposed ratio overvalued the gold, and went beyond the evidence. He appeared to have satisfied himself that the tendency of the overvaluation to produce the exportation of silver was only so much as would be counteracted by the smaller expense of exporting gold; but he began by admitting a present overvaluation; and if he assumed the highest ratio having any color of support, that of 1 to 15.865, his valuation exceeded that by nearly one per cent. much more than the difference of expense in the transportation of the two metals to Europe; and we had the authority of one of the reports from the gentleman from New York for saying that "the difference of a minute fraction of one per cent. would cause either to be withdrawn from circulation." It was wholly inadmissible to tamper with our coins in this way, by screwing gold up to its highest imagined value, and then to raise it one per cent. higher, upon a speculation that it was worth so much more than silver to export, from the greater cheapness of its exportation. What it was really worth, when estimated in silver, was not easy to determine; but the House might select from any source of information whatever, and they would find that the proposed ratio went beyond the extremest point; and it was extraordinary that this should be proposed at the moment when the gold mines of the United States and of Russia were throwing in their supply to diminish this value, if the predictions of gentlemen were to be credited. He asked the House to consider all the statements which had been furnished to show the relative value of the metals. They would find that not one of them justified that surrender of opinion which the gentleman from New York had apparently made to the gentleman from Georgia. The highest ratio suggested by the mint was 1 to 15.865; a lower ratio had been recommended by the late Secretary of the Treasury, Mr. Ingham, by Mr. Gallatin, and by the committee on coins. The average of all the ratios, stated on page 79 of the report, gave that of 1 to 15.699. The relative value of fine gold to fine silver, in London, from 1821 to 1832, was about the same, being 1 to 15.77. In Paris, from 1826 to 1832, it had been 1 to 15.68. [Table B, doc. 8, p. 22.] The average premium on gold in the United States, from 1821 to 1832, had been by the same table 4 1-5 per cent. above the ratio of 1 to 15, which gave a ratio in a very small degree higher than that of 1 to 15.625 proposed by the bill as reported. In Mr. Gallatin's Essay on Banks and Currency it was stated that the relative value of gold to silver, whether deduced from the premium on the French gold coins in the market of Paris, or by assuming that of gold to silver bullion as purchased by the French mint, or at the apparent market rate in England during the last three or four years, would give respectively the ratios of about 15.6, 15.7, and 15.25 to 1 (p. 59;) and the average of these was a fraction lower than the ratio proposed by the committee in the reported bill. The decisive weight of evidence was therefore against that ratio which was now recommended by the chairman of the committee on coins. The proportion originally recommended appeared to have the greatest mass of evidence in its favor, although he would consent to a ratio something higher, for the purpose of meeting the views of other gentlemen; but to go beyond all the evidence, upon a vague speculation that future circumstances might justify it, when the present effect was to do injustice to contracts, and its probable tendency was to displace the silver coins of the country, and to produce the other mischiefs which had been so clearly and ably shown in the remarks of the gentleman from New York, [Mr. SELDEN,] and in those also of

the gentleman from Massachusetts, [Mr. GORHAM,] was a degree of accommodation to opinions, unsupported by argument, which he thought did not merit the approbation of the House. He should vote for the ratio first proposed by the committee, and now again by the gentleman from New York, of 1 to 15.625, which gave an advance to gold beyond its present legal value of 4.166 1-000 per cent.; but he could not, in the present state of his information and opinions, vote for the ratio now proposed by the chairman of the committee on coins.

Mr. EWING said he had intended to give a silent vote on the bill originally reported by the committee, because he was satisfied its provisions were founded upon equitable principles, and he believed it necessary and proper to raise gold to the standard of silver. He had long thought the mint price of gold was too low to retain a proper portion of it in home circulation, as our foreign commercial relations, operated upon by the varying rates of exchange, would continue to entice its export, and thus keep it out of common use. But although he was desirous of a change, to allow our gold coins a relative true value, he could not consent to place it above an equitable standard. Indeed, a change, to be of general public utility, should give no value to gold beyond its relative value with silver; otherwise, silver will hereafter disappear out of circulation in proportion as gold shall be introduced, and in the same manner operated upon by the demand and relative price in foreign markets. He wished he could sanction the views of a member on his left, who had so deliberately, and he (Mr. E.) thought gratuitously, congratulated himself at the ideal prospect of a great increase to our metallic currency, by the adoption of the amendment of the chairman of the committee on coins. He, on the contrary, lamented that the amendment seemed better calculated, as he, (Mr. E.) conceived, to afford a mere exchange, and substitute, than an increase to the coin in circulation. Most assuredly, it will soon substitute gold, rated above its true value, for our own silver, which will be of choice hereafter sent in exchange to foreign markets, because it is rated at its true value; and the substitution will thus lose all the good effect that might be ensured by a fair and just estimate of each. That member, in his calculating zeal for the amendment, overlooks the fact that the legal relative standard of our coin, be it what it may, will only regulate coins and bullion in our own internal exchanges, and that the great money markets of Europe will continue to speculate upon every relative inequality, if any be allowed to exist.

Sir, said Mr. E., the bill, as originally reported, would be preferred by me to the amendment of the chairman of the committee. He told the House that party views did not operate in preparing that measure, and in establishing either a metallic or paper currency; such views should never be allowed to operate. But the amendment offered to-day by that gentleman bears an aspect so different, and will operate so unequally, as far as it may operate, that he could not assent to it. The amendment last offered by his colleague [Mr. SELDEN] is more just, and he should therefore vote for it.

Before he proceeded to assign the reasons which induced him to prefer the last-offered amendment, which he now hoped would find favor in the House, he would finally discharge himself from the necessity of further notice of the premature congratulatory remarks in relation to a metallic currency. That party supremacy has labored to wield and direct the country is well known; the present unhappy situation of large sections of the country affords irrefutable evidence of that fact. And what is the present condition of credit, trade, and enterprise, every where? The rapidly-expanding interests and growing population of the West are not peculiarly suffering, because they are peculiarly circumstanced—they must in time suffer in common. But the congratulations now uttered are calculated, if not intended, to cover the view in perspective, of a local, uncertain, depreciating paper currency, to which the practical policy of some of the friends of a cajoling system of experiments must, in the end, inevitably lead, unless they be arrested and cease. The subject, altogether, is one of great difficulty, and he hoped no party views would be allowed to prevent its equitable adjustment. We are told the United States Bank keeps coin out of circulation, and exports large sums of gold, and that this measure will be a sovereign remedy. He (Mr. E.) could readily suppose the bank held and exported specie, if gain enticed her to do so; but would we have more specie in circulation, or would less be exported, if that were not in existence? The contrary has been taught by our experience; and our most enlightened financiers, Hamilton, Gallatin, Dallas, and Crawford, show the existence of a national bank to be necessary to retain specie in the country, and secure specie payments. Each of these great men, when at the head of the Treasury, demonstrated that a national bank is necessary to perform the fiscal operations of the Government, and to promote the general welfare, if not absolutely essential to the durability of the Union itself. The congratulations we have heard, and party garbage we may read, will not cause a wise people to disregard the authority of the distinguished names I have mentioned, nor cause new recruits to muster to the impracticable and delusive ideas sent abroad for party effect, promising an abundant currency of gold and silver. Indeed, all such delusions may be satisfactorily exposed by passages of the reports of the committee on gold and silver coins, placed on our tables at an early period of the session, which I will now read.

Mr. E. proceeded to read and comment upon different paragraphs of the reports, to show that, in a country situated as the United States, a paper medium, to subserve the objects of commerce, cannot be dispensed with; that a sound paper currency will effect exchanges and payments as satisfactorily as gold and silver; that it is not the composition or material of currency, but the confidence reposed in it, and the uniformity of its value, that interests the public; that the substitution of a paper currency, sustained by the faith and credit of the country, for a portion of gold and silver money, tends to promote industry, by affording increased profit, while at the same time it increases the objects of enterprise and consumption; that the diversified wants of the Union, and of all classes of our citizens, as well as the intercourse of all sections of the country, require a sound paper currency, let the relative standard value of gold and silver be what it may. [A portion of the extracts read were from Smith, Ricardo, and other writers on political economy.]

Mr. E. said he did not desire to be fouud in opposition to any measure calculated to give increased value to any of our own productions, (and gold now classes with them,) but, as he would protect all alike, he would give unequal value to none. The production under consideration (gold) is a standard of value for all others; and, therefore, its ratio with silver should be founded upon an accurate estimate of its intrinsic relative value. He believed the amendment last offered [Mr. SELDEN'S] will be nearest that estimate. He had satisfied his own mind, to a certainty, that the amendment of the chairman [Mr. WHITE] would render gold of at least 1 per cent. more value in the eye of the law than it should be, and thus operate as a tax or tariff upon all the other products of the country, the value of which are not established by law. As far as it may operate, it tends, evidently, to enrich a few gold owners, at the expense of the agricultural and mechanical classes. The great West will, in time, be subjected to an undue portion of the loss of any inequality established in the true value of the circulating

coin. To demonstrate this, the present aspect of our paper currency, with the fact that gold is the most portable metal of value, and the large remittances (required to meet engagements in Eastern cities) from that section of country, should satisfy every member. The people of the West have long prayed for the adoption of measures founded upon reciprocity and equality; they seek nothing more; but it seems they seek in vain. If this amendment of the chairman prevails, will not banks and money holders be gainers to a large amount? And the South, opposed to a tariff to protect our farmers and mechanics, are here to join in enacting a tariff to operate to the benefit of their mining district. Be it so; but let it be founded upon fair and upright principles. The amendment of the chairman he did not conceive to be so founded: the trade of the West would be taxed by it, and (until the value of silver shall be changed) the trade of every portion of the country will be indirectly subjected to a portion of the same tax. He contended it would impair existing contracts, by lessening their value as the value of a tender is increased; and the laborer, and mechanic, and consumer, would all feel their several proportions of the injurious effect. We all know that the ability of our country can only sustain a certain quantity of metallic coin; because it has an intrinsic value, and cannot be procured or retained advantageously, unless our surplus produce may command and preserve it. Now, destroy the uniform paper currency, which is mainly founded upon credit, and which costs little to create, and will our surplus command gold and silver sufficient to answer the purposes of our constituents? He apprehended the contrary. And if we increase the relative value of gold, and thus entice its increased circulation, must not such increase of unequal value produce a very unequal tax? He thought so. The value of the metal is not increased abroad, and the labor and products of the agriculturist and the mechanic at home remain, as heretofore, regulated by the market prices, which are always affected by foreign demand.

Now, if we give an undue value to gold, at the moment a uniform paper currency is about to be withdrawn, the consumers of the West must suffer. If the standard we fix be one or two per cent. more than the importing merchant of dry goods or shipper can expect, although bound to receive it at par value within the United States, he will levy that sum, whatever it be, on the consumers, as a necessary addition to the cost, and the consequence is evident: the citizens of the West, using gold of necessity, on account of transportation, will suffer most severely. Why should such inequality be enacted? The country cannot gain, because, if the quantity be increased, it will only fill the place of a safer article, and the cost, danger, and delay of transportation, would add to the loss. It is, said Mr. E., the internal trade that mainly enriches the country; the amount of that trade, and the coasting trade, and the effect of a total revolution of the currency upon these, should be narrowly watched.

Mr. E. contended that the effect of the amendment last offered [Mr. SELDEN'S] would be the most salutary of the two—it would be at least subject to the vicissitudes of trade. He then adverted to the effect of a currency of unequal value, the principles involved in a bill, now lying upon the table, he had presented. He contended, under existing circumstances, that the adoption of something like his bank plan, to afford a sound paper currency, and equalizing the relative legal value of gold and silver, were measures necessary at this time to give vigor to the moral and political union of these States, and to place the trade and enterprise and industry of the country upon a just basis.

Mr. CAMBRELENG assured the House that he did not rise, late in June, to make a speech, more especially one upon the subject of the currency. He had, to be sure, much to say on that and other questions, but he believed he should follow the example of the gentleman from Massachusetts, [Mr. ADAMS,] and publish what he might have said in the House in some other form. He rose now, however, merely to say a word or two in reply to what had fallen from gentlemen in the course of to-day's debate, and upon the bill as now presented. To the bill originally reported by his colleague [Mr. WHITE] he had decided objections. He felt certain that a majority of the House would never consent to authorize the circulation of a strictly local and depreciated currency; however, the policy has been, and continues to be, sustained by enlightened nations. He felt sure that the House would not adopt a system by which two halves and four quarters of the eagle were not intrinsically worth an eagle by some four or five per cent. But the object of his colleague was what we all desired, to secure the permanent circulation of a gold currency; and the plan now proposed would accomplish the purpose by less exceptionable means. The question was, what ratio should be established between gold and silver? His colleague [Mr. WHITE] proposed one to sixteen; another colleague [Mr. SELDEN] proposed one to fifteen and five-eighths. The latter ratio had been strenuously supported by that gentleman and by the gentleman from Pennsylvania, [Mr. BINNEY;] it had also been recommended by the president and directors of every bank in New York but one, and by Mr. Gallatin. He was bound, by every consideration, to treat these authorities with great respect. But, sir, the basis of this calculation of the relative value of gold and silver is wholly illusory. The average ratio of gold to silver for ten years past in this country, and the present low value of gold here, should never govern us in permanently adjusting the ratio so as to secure an equal, if not a greater, quantity of gold. It was the ratio best suited to the customary (not mint) but current valuations of the world, which would ultimately best adapt itself to the currency of the country and the commerce of the world. The relative prices in this country for ten years past had nothing to do with the permanent ratio between gold and silver, no more than it had between silver and any other commodity which was prohibited by our laws from circulation or consumption. Ours was merely a market where prohibited gold might be purchased for the use of the mints of Europe, whenever it could be procured lower here than in other markets. At fifteen and five-eighths it could be sent to Europe at a profit, as fast as it was coined at our mint or brought in the course of trade from other countries. The tendency of our ancient ratio of one to fifteen was constantly to keep down the price of gold in this country, when gold was not only exported to Europe, but to the countries south of us. The ratio existing under such laws, and in such a condition of trade, was not the just medium between the two metals. Raise your ratio, restore your gold currency, enable those who are employed in our foreign trade to dispose of their gold for the consumption and circulation of their own country, and your ratio of fifteen and five-eighths would vanish at once, and the price of gold would soon approximate to your proposed mint valuation. Our past prices for gold form no just criterion--the prices of gold abroad should be our guide.

There has been, Mr. Speaker, too much refinement and speculation on this question of the relative value of gold and silver and of currency. I am persuaded that the currency of every country would have been infinitely more sound, if less speculation and refinement had been introduced into legislation through the agency of mint directors and bankers. We are now endeavoring to adjust this question permanently, to aid in reforming the currency of the country, and what do we find? Why, sir, after all this legislative wisdom, after altering and realtering the ratio, after alternately adopting gold or silver as a curren-

cy, we find the most enlightened nations of Europe with debased currencies, for the purpose of keeping at home that which should be the medium of the world; and that, after all their inquiries and refinements, no two of them agree in establishing the relative value of gold and silver. Now, sir, with great deference to these authorities, in establishing a permanent ratio, I prefer following a less fluctuating example. I prefer looking to the South—to our own neighbors, where the same unvarying ratio has continued for generations—to those mining countries where the ratio is established which will influence and control the relative value of gold and silver, notwithstanding all our laws and the temporary fluctuations at different times and in particular countries. We all, sir, have our particular speculations upon this subject. One gentleman proposes fifteen and five-eighths; the gentleman from Massachusetts [Mr. Gorham] would go as high as fifteen and three-quarters; and, sir, I have my own speculation about it; the just average, according to the best calculation I can make, is fifteen, eighty-six and a half. The ratio proposed by my colleague [Mr. White] is a fraction less than one per cent. higher than the result of my calculations. Independent of these calculations, I have always thought that, in establishing a ratio for our coins (situated, as we are, intermediately between the mining countries and Europe) we should go higher than most of the European regulations, and fall a little below the ancient Spanish ratio, which is still the regulator in most countries where there are no controlling laws. But, sir, willingly surrender all my speculations on this subject; It is much more safe to establish a valuation of gold too high than too low; by adopting a higher ratio, we shall be more certain of accomplishing our object, which is to secure for our own country the permanent circulation of gold coins.

Some objections have been stated which I do not believe well founded. We are alarmed at a mere fractional variation. Of the importance of this objection we may judge by the facts stated in this debate. We are told that the mint valuation in France is fifteen and a half, while the current value is fifteen and seven-tenths; that in England, fifteen and a fifth, or less by another calculation; while the actual ratio is about fifteen and eighty-three hundredths. Sir, the current ratio between gold and silver bullion may, as it does, fluctuate with the increased or diminished demand for either for temporary use. But, with a just ratio, your currency will not be affected by such fluctuations. Great fears have been expressed, too, about driving silver out of the country. I cannot believe, sir, that the trifling advantage given to gold, an advantage not equal to one per cent., will produce any such effect. Neither of them would go out, unless to pay temporary balances, and under the proposed regulations for our coin. If the Mexican and Peruvian dollars were exported, the fractions of the dollars of every kind, and the gold, would remain. I cannot perceive how this result would injure the country. Another apprehension is indulged, as I think, equally unfounded. Calculating erroneously upon the existing relative value of gold and silver in this country as the true and proper value, and forgetting that it is altogether the artificial work of our own laws, we are gravely told of the danger of authorizing the circulation of both metals together, and particularly when you value gold two or three per cent. higher than it ought to be. The error is in assuming that fifteen and five-eighths is the just average ratio of gold and silver in the markets of the world, while that average is within a fraction of one per cent. of that proposed by my colleague, [Mr. White.] Pass the bill, and gold would immediately assume its just relative value, and whatever small difference might exist, would be immediately controlled by law and custom. The opinion that the two metals cannot circulate together, and both be made a lawful tender, is, I know, general; but it is rather speculative than sound. It may be logically proved in theory; but, like many other theories, it is contradicted by experience. It is extraordinary that we should indulge these alarms in the face of the examples of France and of all the nations south of us, where both metals circulate, and are received in the payment of debts, without inconvenience or any derangement of the currency.

Those, sir, who go for a low value for gold, overlook the object of this bill, and we should be left, upon their plan, precisely where we are now, without a gold currency. Looking upon this measure, as I do, to be the most important that has been presented to us during the present session, in its ultimate effects upon the currency of the country, I cannot think it an injury to give a trifling advantage to gold over silver. It will tend to give us a broader basis for our paper circulations, and moderate the too rapid growth of corporations, which are overshadowing the land. Put your gold coins in circulation, and the effect on public opinion, the only salutary corrective of bad legislation, whether State or federal, would be more powerful than thousands of our speeches. Every man would see the fallacy of the supposed necessity for our small-note circulations, and of granting to corporations the power to flood the country with bank notes. Those who would come here, as well as those who would be sent to our four-and-twenty Legislatures, would entertain very different opinions upon the questions of currency and banks. We should not then propose to sustain the currency or the Government by an abuse of power and an abuse of credit. These are the remote consequences of the measure we are now about to adopt, which would be entirely defeated by accepting the amendment proposing too low a valuation of gold.

Mr. GORHAM observed that the House was going to make gold cheaper than silver, and the necessary result must be, that the gold would be retained and the silver sent abroad. The cost of carrying the two kinds of specie being the same, a man going abroad would, of course, take that kind in preference which would bring him the most where he was going; and if there was even a small difference, it would be sufficient to determine his choice. He had offered a proposition which he believed would meet and obviate the difficulty, and keep both metals among us. Unless some such expedient should be adopted, he was very certain that the silver would shortly disappear, and nothing but gold would get into circulation; and then just the same difficulty would occur with gold as did now respecting silver.

Mr. McKIM opposed the amendment suggested by Mr. Gorham, which, he said, would, in practice, derange all the commercial affairs of the community. It required that all payments must be made one-half in gold. What if the gold was not in the country? and such was notoriously the fact. The low standard which had long prevailed in this country for that metal had driven it all away. The amount of gold coin in the United States had been regularly diminishing for years past. Gold alone was a legal tender in Great Britain, and this caused all the gold to centre there. Such an arrangement as was suggested by the gentleman last up would, if insisted upon, give an entirely new train to our commercial business. Every man would be set to hunting about to find where any gold was to be found, and the use of notes would, in a great degree, be discontinued. He thought the ratio of 16 to 1 certainly too high; he believed 15.825 would be a better standard; but if it was found that they had gone a little over the mark, it was a matter that might be easily regulated. The effect, in the mean while, would be to extend some encouragement to our gold mines at the South. The exportation of gold, at present, was a regu

lar trade, and the effect was to injure men of small capital. Another result of the bill would be to drive out the circulation of bank notes, to a certain degree, which, perhaps, would not be a bad thing. But he hoped the half-and-half plan of the gentleman from Massachusetts would not be adopted.

Mr. GORHAM now withdrew his amendment.

The question being now loudly demanded, it was put upon Mr. SELDEN's amendment to the amendment proposed by Mr. WHITE, (fixing the ratio of gold to silver at 15.625 to 1,) and decided by yeas and nays: Yeas 52, nays 127.

Mr. GORHAM, observing that he felt much anxiety as to the practical effect of the bill in driving out the silver from our country, proposed an amendment altering the relative proportions of fine and standard gold in the eagle, as follows: instead of 232 grains of pure gold to 258 grains of standard gold, he proposed 234 grains of the one to 260 grains of the other; in the half eagle, to change 116 to 117 grains of fine gold, and 129 to 130 of standard gold; and in the quarter eagle, 58 to 58½, and 64½ to 65.

Mr. WILDE said that this was the very highest ratio to which he could bring his mind. If it should be set higher, the inevitable effect would be to banish silver, and substitute gold in its place.

The question being put, Mr. GORHAM's amendment was rejected: Yeas 69, nays 112.

The question then recurring on the amendment offered by Mr. WHITE,

Mr. BINNEY offered an amendment, providing that a certain number of the pieces coined in each year should be reserved and assayed, to ascertain whether they were of the proper fineness. This, he said, was recommended by the director of the mint; and he offered it in the form of a new section to the bill.

Mr. WHITE accepted this as a modification of his amendment; and the amendment thus modified was agreed to without a division.

The bill was then ordered to its third reading, and read a third time; and the question being "Shall this bill pass?"

Mr. ADAMS said he should vote in the affirmative, though he did it very reluctantly, and in the hope that the ratio would be amended elsewhere. He considered it as decidedly too high; but as the bill was a very important one, he should not oppose its passage.

Mr. ARCHER said he hoped that the House would be influenced by this suggestion of his friend from Massachusetts to vote for the bill.

Mr. GORHAM said that if the House should vote, by any very large majority, for the bill, he was assured the Senate would not alter it. He hoped all who were opposed to the bill would vote against it, without any view to amendments hereafter.

Mr. WILDE admitted that, by the existing law, gold was undervalued; but by this bill it would be so greatly overvalued that of the two he should prefer the old law.

The question being put, the bill was passed: Yeas 145, nays 36.

Another coin bill, regulating the value of certain foreign gold coins within the United States, was then taken up, and having, on motion of Mr. WHITE, been so amended as to conform it to the ratio established in the preceding bill, it was in like manner read a third time, passed, and sent to the Senate for concurrence.

Two private bills having been carried through Committee of the Whole and passed, the House spent a short time on the bill from the Senate, granting double pensions to the surviving relatives of the sailors killed on board the French frigate Suffren, in the bay of Toulon; when the farther consideration of the bill having been postponed till Monday, the House, at 8 o'clock, adjourned.

MONDAY, JUNE 23.

Mr. CHINN, from the Committee on the District of Columbia, reported the following resolution; which was disagreed to by the House:

Resolved, That the bills on the Speaker's table, reported by the Committee on the District of Columbia, shall be the special order for this day, from and after twelve o'clock.

Mr. POLK rose to move that the rule by which this day was set apart for the presentation of memorials and petitions should be suspended at two o'clock, at which hour the House should resume the consideration of the bill to regulate the terms by which the deposites are to be held by the State banks.

Mr. DENNY wished to have the harbor and fortification bills taken up, and with that view called for a division of the question, and for the yeas and nays on the motion to suspend the rule; which having been ordered,

Mr. J. Q. ADAMS moved, as an amendment, that "five" o'clock should be inserted as the hour at which the House should take up the deposite bill. This being the last day for the presentation of petitions, it was, he said, due to the people that they should have the benefit of it. After that hour, he was willing to remain until midnight for the disposition of the other business.

The amendment was rejected, and the question as to the suspension of the rule having been divided, so as to be taken on the suspension simply—

The House agreed to suspend the rule: Yeas 127, nays 61.

A desultory and lengthened discussion then arose as to the business which was entitled to precedence, in which Mr. SELDEN, Mr. HUBBARD, Mr. HUNTINGTON, Mr. DICKSON, Mr. EVANS, Mr. CLAY, and Mr. DENNY, participated; after which,

The House finally negatived the other part of the motion, viz: to take up the deposite bill at 2 o'clock: Yeas 124, nays 65—not two-thirds.

The House then proceeded to the orders of the day, being the presentation of memorials, &c.

RHODE ISLAND RESOLUTIONS.

The resolutions from the Legislature of Rhode Island, presented by Mr. BURGES, for the restoration of the deposites and recharter of the bank, coming up as the unfinished business,

Mr. PEARCE, who was entitled to the floor on this question, addressed the House at length on the subject. Having spoken of the delay which had occurred in the presentation of these memorials, he said his object was to correct some mistakes which, in his opinion, prevailed, as to these resolutions. The report was, that they were resolutions of the popular branch of the Legislature of Rhode Island. They were understood to be such from the statements of his colleague, [Mr. BURGES,] on a former day. Mr. P. said, his object was to satisfy the House that they were not the resolutions of the Legislature of Rhode Island—not the resolutions of the popular branch of that Legislature. For this purpose, he would call their attention to what these resolutions really were. And, first, he would call attention to their caption; from which it would appear that they were not the joint action of the Senate and House of Representatives of Rhode Island. It did not appear, from the resolutions themselves, what was the action of the Senate with regard to them. His colleague, indeed, had said that two of these resolutions did receive the authority and sanction of the Senate.

He (Mr. P.) did not know on what authority his colleague made this statement. According to all that appeared, these acts of the House of Representatives were dead, even as acts of the House of Representatives of the State of Rhode Island. For the moment the Senate, in a committee of conference, refused to agree to these

resolutions, they became a mere nullity. All that House had had was a transcript of the proceedings of the representatives of Rhode Island, previously to their being ratified by the Senate of that State. But, further, he would ask, what had they heard said, in relation to these resolutions? For he wished to put these proceedings in their proper light, before that House and the nation; and to prove that, as yet, they had not heard the voice of either House of the Legislature of Rhode Island, relative to that subject, which had engaged the attention of the whole country for the last six or eight months. And here he would call on the House to remark, that the subsequent proceedings, after the Senate had disagreed, had been neither read nor commented on by his colleague. Perhaps they had escaped his attention. It was for the purpose of putting this matter in the right light that he had risen that morning. His colleague, in speaking of this popular branch of the Legislature, as he had termed it, represented it as a band of heroes and patriots. Now, he (Mr. P.) would take upon himself to say, that at no time does the House of Representatives of Rhode Island speak truly the popular voice. He would tell them the reason. They had in that State the rotten-borough system. Mr. P. here detailed the population and number of representatives, in Newport, Portsmouth, Easton, &c. for the purpose of showing the unequal apportionment of representatives to the population in that State. He might, he said, go through the whole State, but he had stated enough to show that these resolutions were not the voice of what might be properly called the popular branch of their Legislature.

But it seemed the Senate did not concur in these resolutions. Now, how was this Senate constituted? Its members were voted for by the people at large; the Governor and the Senate were elected by a general ticket; the Senate, then, was more justly entitled to be designated as the popular branch; and if there had been any expression of the opinion of the people of Rhode Island, that expression had well been let alone.

But, for the sake of argument, he would call the attention of the House to the resolutions themselves. Admitting that the House had in them the expression of the opinion of the popular branch of the Legislature, what was it?

[Mr. P. here read the resolution, stating the removal of the deposites to have been a measure unwarrantable, ill-advised, &c.]

He thought that this was not the proper language for that body to use; and, further, he stated to the House that one of these gentlemen, whose opinion was expressed in this resolution, was a member of the Hartford convention. With regard to the next resolution, he objected to it because it was founded on the assumption that the bank had done what was required of it by its charter. This he denied; and, until this issue was settled, he should reject this resolution, as founded on a mere presumption. [Mr. P. then read the next resolution.] So far as regarded that resolution, which related simply to the existence of a national bank—not a monster, to arise out of the ashes of the present one, but a bank with a less capital, and for a more limited time—if this was its meaning, he was in favor of it, and he believed nine-tenths of the people of Rhode Island would be in favor of it. But he every day became more and more convinced that there was in that State a majority of two to one against the present bank; at the same time, he believed there was a large majority in favor of a national bank. The only thing against this being the universal feeling was, that the conduct of the Bank of the United States had been so bad that it prejudiced people against any bank. He hoped such would not be the case, but it might have this effect. [Mr. P. read the next resolution, proposing the establishment of a national bank.] He was opposed to this, because it contemplated an existence too prolonged for any such institution. It would, in his opinion, be better to submit to the evils arising from the fluctuations of temporary institutions, and from their winding up of their affairs, than to establish an institution for a lengthened time. He would not agree to give to any such institution a longer term than ten or twelve years; and, instead of a capital of thirty millions of dollars, he would not allow it more than twenty millions; perhaps ten or fifteen millions would answer all purposes.

Mr. P. further urged his objection to a bank, incorporated under such provisions, for so long a time, and with so large a capital and extended powers, as the Bank of the United States; and controverted the opinion put forth, that the President had been guilty of an act of despotism in the removal of the deposites. These cries of terror were put forth for effect. Hence the statement of his colleague about the chambers of death, and the picture of horror he had drawn, until they could all but see the bats flying about, and the foxes looking in at the windows. The occasion he alluded to was the prosing speech of his colleague, which had been subsequently published, and made a pamphlet of eighty-two pages. He discredited these evil predictions. He believed that none of these consequences would ensue. It might be that, by improvident conduct, persons in various cities had brought distress on themselves; but this was not the consequence of any act of the Executive; and he believed that our trade generally was as good as usual. They had heard no complaints from the people of Rhode Island, with the exception of the memorial presented some time since, from the little village of Wolsoccet, by his colleague; and in regard to which he wished merely to state to the House that, since that presentation, there had been an appeal to the ballot-boxes, and a majority found in favor of the present administration.

Mr. P. said he was free to confess that the winding up of a great concern like this must necessarily produce some difficulties, but little of it would have reached his State. He denied that the men who were really distressed or broken down by pressure came there. No, they were the broken-winded and disappointed politicians, disappointed aspirants, and hence arose such a multiplicity of distress meetings, and distress memorials. The issue was fairly tried in Rhode Island, and the result proved this fact. If the mechanics, merchants, and farmers came before us, and knocked at our door, and told us what they suffered and what they wanted, he would pay the highest regard to their memorial; but such was not the description of persons who came there. He denied, also, that the country was in distress, since it would be found that the revenue would, in this very year, far exceed the estimates; within the last year and a half, more than fifteen millions had been brought into the country. With these facts staring us in the face, who could say we were approaching a despotism. Mr. P. said he thought it due to himself and to the country that he should have presented his views on this subject; he had not troubled the House much, and had it not been imperious necessity, he would not have taken up so much time as he had.

Mr. BURGES denied that he had husbanded these resolutions to make a display; he had written to his colleague on the subject, who had declined presenting them, and the only reason why they had been delayed was from the pressure of business before the House. It would be found that the people of Rhode Island had not ceased to complain, and he held in his hands another memorial from Ghent county on the same subject. When it was reflected how memorials were received there, with that scowl with which they were received by the British Parliament in the reign of George the Third, it was not surprising that more had not been sent. He would tell

the gentleman, his colleague, that their little State would lose the last ounce of its treasure, its last cent, its last sword, its last drop of blood, ere it would agree to sustain the conduct of the present administration.

These resolutions (said Mr. B.) were passed by the popular branch of the Legislature, and the reason why they had not passed the Senate was because that body, or certain leading members of it, wished to display its loyalty to the present Executive. They were influenced by a gentleman who had great executive patronage and expectation there. In the popular branch nineteen towns out of thirty-two had voted for the resolutions, comprising more than three-fifths of the population. And it would be found that five-sevenths of the whole constituency of the State were in favor of most of the resolutions, and one-third more in favor of the remainder. Mr. B. defended the conduct of the members of the Hartford convention, in reply to the charge made by his honorable colleague that the framer of these resolutions had been a member thereof. Even had the men of that convention acted wrong, were there not others who had done the same? He could point out persons who had changed their opinions very suddenly; and, if their course were right now, must have been wrong once. The gentleman had said that the deposites ought not to be restored to the Bank of the United States till the issue between that institution and the administration had been settled. Let him ask, was there a gentleman present who could point to a single fact in which the bank had not performed all the duties assigned to it? The truth was, that the outcry against the bank had originated among the stock-jobbers in Wall street—miscreants who fattened upon the industry of the people. He denied that the resolutions had been sent there by broken-down and broken-winded politicians, but by as upright, respectable, and honorable men as any in the State. Mr. B. concluded by moving that the resolutions be referred to the Committee of the Whole on the state of the Union, with instructions to report that the reasons of the Secretary for removing the deposites from the Bank of the United States were and are insufficient.

Mr. PEARCE was happy to find his colleague come out as the open advocate of the Hartford convention. He had read the history of that event; and he remembered something of the circumstances connected with it, though he was young at the time. Their object was a separation of the union of the United States, and he had seen a letter from Mr. Lowell, of Massachusetts, proving that to be so; and these were the men supported and advocated by his colleague. At what period was this convention organized? At a most critical period of the country, when exchequer bills were at a discount of thirty-five per cent.; and what did they do? Go among the soldiers and sailors and advise them to decline serving their country.

Mr. MARSHALL rose to a question of order. This subject had no connexion with the resolutions.

Mr. PEARCE was replying to his colleague. It was in his (Mr. P.'s) recollection that when the news of war arrived in the town where his colleague resided, the bells were set ringing; and this was the place where those patriotic men lived who sent their complaints to that House. He would refer to the language and conduct of the friends of that convention in Massachusetts and Rhode Island. He had always thought his colleague was a friend to it; but he had never expected to have heard any one enter upon its defence on the floor of that House.

With regard to the resolutions, Mr. P. said, they were not sent there for presentation. Let him ask why they had been so long postponed? It was agreed by his colleague and a Senator from Rhode Island that they should be presented to both branches of the Legislature on the same day, in order that a greater effect might be produced. Mr. P. repudiated the charge that he had failed to treat memorials, whether they came from friend or foe, with respect. Still he maintained that they had been got up by disappointed and broken-winded politicians. He had stated nothing but facts in relation to those persons who had got up those petitions, and he should continue to do so.

The gentleman had charged him with changing his opinions during the last two years. What was the truth? Two years ago he represented the views and opinions of the people of Rhode Island; he did so still. The people had changed, and he was still with them. He denied, also, that he was a hunter for office. He neither sought, desired, or expected office, and if it came, it would come unexpectedly. Mr. P. made a few further remarks in defence of the Senate. He had not sought a controversy with his colleague, nor ever would, but he should never shrink from an open avowal of his opinions.

Mr. DENNY moved to lay the resolutions and restrictions on the table; which was agreed to without a division.

Mr. WHITTLESEY now called for the orders of the day.

After some discussion as to precedence of business, the House took up

THE HARBOR BILL.

The question being on the amendment of Mr. MERCER, appropriating $29,000 for surveys, including arrears—

Mr. HAWES moved a call of the House; but the call was refused.

Mr. SMITH, of Maine, inquired whether a portion of this appropriation for surveys was not to meet arrears?

Mr. POLK replied in the affirmative.

Mr. SMITH then wished to call the attention of the House to the fact that they were now asked to pay money which had been expended without authority by one of the officers of Government. Would the House sanction this course on the part of public officers? If, after a specific sum had been appropriated for certain objects, the officers of Government were to go on expending still more, and then come to the House and ask for the surplus, under the name of arrears, where was such a course of expenditure to stop? or what was to limit it? This course of things seemed now to be expected and counted upon. Congress had so often sanctioned demands of the kind that it seemed to be calculated upon as a matter of course. Officers would at length come to the conclusion that they might exceed the amount appropriated at pleasure. If they might do it one year, they might another; and if they could exceed by $17,000, why not by 100,000 or 1,000,000? Ought not the House to put a stop to such a practice? Ought they to agree to the amendment, if this was involved in it? Such items "for arrears" were excellent contrivances to cover up these excesses of expenditure. This was his objection to a part of the amount; and as to the residue, it only went to open a track to new works of internal improvement by the General Government—a thing on which the people had put their most emphatic veto. On that ground he should vote against the whole appropriation.

Mr. STEWART rose to state a fact, viz: that the arrearages in this item were not for voluntary excesses of expenditure by the War Department, but expenses incurred unavoidably in executing the express orders of the House. Laws were passed requiring the Department to execute certain surveys; and it often would happen that either the order of the House must remain unexecuted, or some excess of expenditure beyond the amount appropriated be unavoidably incurred. And would the House, after imposing this necessity, turn round and say they would not indemnify the Department for expenditures actually made; or, what was the same thing, would refuse to pay for work actually done? Engineers had been engaged, and chain-bearers and other assistants hired; they had gone into the field, and on the faith of the Govern-

ment had given their time and labor to objects of a public nature; were they to be refused their pay? Would the House say, though we required this work to be done, we will not pay for it? Would the gentleman from Maine [Mr. Smith] hold this language to axe-men and chain-bearers who had labored for the public? But the gentleman apprehended that this appropriation was going to open a door for the perpetuation of the system of internal improvements. The appropriation was asked under a law which had been passed ten years ago; which had been approved and sanctioned by subsequent acts, by every successive Congress from that time to this; which had received the signature of every President to whom they had been presented. What, then, was there of novelty in this measure? Was it not the established usage, the settled policy of the country? If the system was now to be overturned, the best way would be to repeal the original law, and not to do the same thing informally and consequentially, by withholding the appropriations necessary to carry it into effect. Let the corps of scientific men whom the Government had raised up for this important work be dismissed; not starved out. Mr. S. would not enter on the constitutional question; it was settled; it had long been settled. The question now was, whether the House would appropriate money to provide for expenses incurred according to law?

Mr. HAWES said he understood this item was in part to cover expenses already incurred, here called arrears. Mr. H. appealed to the House to say whether they would sanction such a principle. He asked them to reflect for a moment. Would they authorize a Secretary of War to expend money in a manner unauthorized by Congress? Might he go on, and at pleasure exceed the orders given him? And when he came back with a demand for "arrears," would the House, by allowing the demand, encourage him to repeat the same course the next year? The gentleman from Pennsylvania [Mr. Stewart] had told them that these arrears were for expenses incurred according to law. He denied the position. There was no law which allowed any such thing. He called upon the gentleman to produce a single law to justify it. He denied the right of any officer to expend more money than Congress had appropriated, and he called upon the House to put a stop to such a practice. Suppose, after the House had given $300,000 for the repairs of the Cumberland road, the Department should go on and expend the whole $602,000 they had asked for; was the House next year to allow the balance as arrears? Would they not be as much bound to allow those arrears as these? To pass such an item would be virtually to proclaim to the Secretary of War, and every other Secretary, and every other officer of the Government, that they might exceed at pleasure the limits fixed by the acts of Congress. Mr. H. could not do this. He would tell the Secretary that he had exceeded his authority; that he had violated his duty; that he had insulted that House. He should vote against the amendment, and he demanded the yeas and nays, that he might record his vote against all such proceedings.

Mr. HUBBARD said that, after the very extraordinary attack of the two gentlemen from New York [Mr. Mann and Mr. Beardsley] on the Committee of Ways and Means, and especially upon himself, he could not remain perfectly silent in relation to this bill. He must say that gentlemen had taken a very extraordinary liberty of animadverting upon his course in respect to various items of this bill. And he must ask the indulgence of the House to submit some words of reply. The grounds he had taken had been uniformly in strict accordance with the bill as reported by the committee. He denied and repelled the charge which had been made upon him, of opposing bills which he had reported. He asked the House to bear witness whether he had, in a single instance, acted in a spirit of hostility to the bill. He had reported certain amendments by order of the committee, and in express accordance with the recommendations of the War Department. And though he disapproved of many things the bill contained, he never could have moved, himself, to lay it upon the table. Yet when such a motion was made by an avowed friend of the system of internal improvements, what was he to do? Must he vote against it because he belonged to the Committee of Ways and Means? He could not. He thought his course was such as good sense would dictate and the House approve; nor was there any thing in it to justify the very extraordinary and most unlooked-for attack of the gentleman from New York behind him, [Mr. Beardsley]—an attack which he should remember so long as memory held her seat. The gentleman had said that he could convince the House in a moment that he (Mr. H.) was in the wrong; the gentleman was mistaken; he would find it a more difficult task than he imagined. Mr. H. said that although he had been assailed in a very rude and uncourteous manner, and had in consequence determined not to speak another word about the bill, he could not refrain from making a remark on what had fallen from the gentleman from Pennsylvania, [Mr. Stewart.] He would read to the House a report from the Secretary of War, which would go to show how far the gentleman was out of the way in his statements, and in what an extremely loose manner that gentleman was in the habit of speaking. [Mr. H. here quoted the report.]

The Department had incurred no expenditure under the act of 1824, except $7,000. Mr. H. concluded by declaring that it was his wish to do strictly his duty, and nothing more than was his duty. What the Department wished, and what the committee had considered and recommended, that he should support. And in all his course on this occasion, and on all others, he should consult his own views and feelings, and not the will of others.

Mr. LANE was astonished at what he saw and heard. He was amazed on looking at this bill, and seeing items of 20, 30, 50, 100, ay, and some of 270,000 dollars for objects upon the seaboard, that a petty appropriation of $29,000 for surveys should cause such excitement. Especially was he surprised at the ire of the gentleman from Maine, [Mr. Smith;] for that gentleman had a pretty little item in this bill for his own State. Surely, a stranger would consider the present debate a very extraordinary one, when he found that there were items in the bill for all parts of the Union, which had successively been passed without raising the slightest breeze, that now such a storm should be conjured up by this little harmless clause for a few surveys. Here was an item for Salt river; he believed it was in the district of the gentleman from Kentucky, [Mr. Hawes,] and the gentleman's voice was not once heard in opposition to it. Yet now the gentleman was calling loudly for help against this nefarious item for surveys. It was no more than the ordinary clause which had passed every year for years past. It was not for any local interest; it was of a character strictly general, perfectly national. Every State had an equal interest in it. Nor was it necessarily connected with the system of internal improvement by the General Government. Private companies were continually projecting canals and railroads, and applying for U. S. Engineers to lay them out. Why must they commit the General Government to engage in the projects? This bill contained nothing which gave several of the Western States any interest in it, save this general item for surveys: if this should be stricken out, a large part of the Western country must be cut off from the benefits of the bill entirely. It seemed strange to him that gentlemen should be so extremely sensitive about a mere ordinary commonplace appropriation, which had received the sanction of every Executive since it was first introduced.

It was true the Department had somewhat exceeded the appropriation of last year for these objects. But was this so striking a novelty? Was the word "arrears" so great a stranger to gentlemen's ears? How many bills had passed this very session, and passed at all other sessions, which contained the clause "for arrearages of the year 1833 or 1832?" The thing was unavoidable. The exact expense of every thing could not be calculated to a hair's breadth beforehand. And when the House had confidence in an officer, as it eminently had in the present Secretary of War, when had it ever refused to cover unavoidable arrearages?

Mr. L. said he was a friend to this bill *in toto;* and he had voted to lay it on the table only because he had apprehended that the West had been treated unfairly. He must repeat his astonishment at the course of the gentleman over the way, [Mr. HAWES,] when his own Salt river—

[Mr. HAWES. The gentleman must not attempt to row me up Salt river; it was Green river, not Salt river, for which I moved an amendment.]

Mr. LANE. Well, be it so. Green water is often salt, and perhaps the gentleman's Green river might, from its name, be included in the salt-water rivers, to which some gentlemen were for confining their constitutional assent. Well, the gentleman had got his Green river turned into the bill; and now why would he oppose the only item in which all his brethren of the West had a common interest?

Mr. SUTHERLAND expressed impatience for the question. God knew, he said, that the House could not be enlightened by such a debate; the time was short at best, and grew shorter every hour. He trusted they should get the question.

Mr. BEARDSLEY observed that this appropriation was professedly to carry into effect the act of 1824. When he had last addressed the House he had not particularly examined that act; he had, since then, read the law; and he still doubted, as he had before done. The law directed the President to have such surveys made as he might regard as of real importance. The law conferred the authority and it imposed the duty; and he supposed a law bound the President of the United States as it did other officers of the Government. This he conceived to be a sufficient answer to what the gentleman from Maine [Mr. SMITH] had said about the impropriety of incurring debt to fulfil an act of Congress. The President was not in fault, nor the Secretary. If gentlemen held the expenditure to be improper, the remedy was to repeal the law, and not to refuse to pay for expenses which had been actually incurred. This appropriation had nothing to do with what the gentleman had called the repudiated system of internal improvements. The money, as he understood the matter, was to be expended upon works of a national character. If the President had disbursed 7,000 dollars more than had been appropriated upon works of this character, Congress was bound to pay, because the money was expended upon works sanctioned by law. If the House ordered the President to do a certain thing, surely it was bound to enable him to do it. This extricated gentlemen from all difficulty on the subject of arrears. As to the honorable gentleman from New Hampshire, [Mr. HUBBARD,] Mr. B. said he had not been conscious of saying any thing that would be unpleasing to that honorable gentleman; and if he had unwittingly done so, he regretted it. He had not intended to reflect upon that gentleman's course. All he had meant to advance was, that, according to the old-fashioned course of legislation, when a bill was reported to the House from a committee, and not altered in the House, it was always taken as a matter of course that a majority of the committee would act in favor of the bill. If they did not do so in this case, it was only an exception to the general rule.

Mr. MASON said that, if the law of 1824 was examined, it would be seen to have been only of a temporary character. The first sum appropriated under it carried the law into effect, and left it without further force. Mr. M. said that he did not wish to occupy the time of the House, as he was fully sensible of the truth of the remark, that they were not likely to be much enlightened by the debate. He therefore should not attempt to amplify the argument, but would merely refer gentlemen to the language of the bill, and to the great weight of appropriations which had since been made under it. He did not assent to the doctrine that the House ought not to pay for arrears. On the contrary, he was of opinion that, under the circumstances of the present case, arrears were all that the House ought to pay. Beyond that he would not consent to go; and he therefore moved to amend the bill by striking out 29,000 dollars and inserting 7,000 dollars, or whatever was the true amount of arrears. He objected to any new surveys, because he would not consent to make an appropriation out of which farther and greater appropriations were certain to grow.

Mr. MERCER said that he hoped the motion of his colleague would not succeed. If it should, he must vote against the bill. He never would give his sanction to a partial one-sided system of internal improvements.

Mr. SMITH said that he hoped the gentleman from Virginia [Mr. MASON] would so modify his amendment as to make it express the fact that the appropriation was to cover arrears.

[Mr. MASON. Certainly; such was my intention.]

Mr. S. then said that he wished to be indulged with a word or two, in reply to some of the remarks which had fallen from gentlemen on the other side. As to the snug little appropriation for Maine, to which the gentleman from Indiana [Mr. LANE] had referred, he presumed the gentleman had reference to an item of 10,000 dollars for piers at the mouth of Kennebunk river. Now, had this amount been appropriated to pay the officers of Government for work done without authority of law, the gentleman would have found him just as ready to vote against it as he was now to refuse this appropriation for surveys. On this ground he must also oppose the amendment of the gentleman from Virginia, because the adoption of that amendment went to give the sanction of the House to a course of expenditure which he condemned. It had been said that many other bills contained clauses for arrears. This was true, but it did not change the case: there was now a bill before the House which contained an item of 22,000 dollars for arrearages in the expenditures upon our public buildings. He considered both alike; they rested on the same principles; and if the House should sanction the one, he did not see how it could resist the other. If they went for the 7,000 dollars they must go for the 22,000 dollars, and for all other arrears that might be asked for. For his own part, he should resist the whole.

Mr. BEATY said that, in order to afford all his western friends the opportunity of giving a correct vote on this bill, he renewed the motion to lay it upon the table.

On this question Mr. E. WHITTLESEY demanded the yeas and nays.

Mr. MERCER expressed a hope that the honorable gentleman from Kentucky [Mr. BEATY] would consent to withdraw his motion until the present item should have been passed upon.

Mr. BEATY consenting, withdrew it accordingly.

The question being on the amendment proposed by Mr. MASON,

Mr. GARLAND demanded the yeas and nays.

Mr. BOON said that, when the bill had been up the other day, he had voted to lay it upon the table; and he now apprized gentlemen that, if this amendment should be adopted, he should go against the bill. If that part of the country in which he resided was to be refused its share, he should go against the whole system.

Mr. H. EVERETT observed, in reply to Mr. SMITH, that they had passed many bills containing provisions for arrearages. He would take the liberty of reminding the gentleman of one which seemed to have escaped him. He alluded to the appropriation of 6,000 dollars for arrearages on the furnishing of the President's house. When these arrears were to be paid, the gentleman had nothing to object. Mr. E. said that he wished the House could bring back the expenditures of the Departments exactly to the sums appropriated. He could not agree with the gentleman from New York [Mr. BEARDSLEY] in the doctrine that, when the House had ordered an object to be effected, the Executive might expend upon it what he pleased, and the House was bound to refund. He believed that the expenditures ought to be limited by the appropriations. There was, however, some excuse for the Secretary of War. If there was any class of expenditures in which occasional excess was excusable, it was in works of internal improvement; because, from the nature of the case, the exact sum required could not always be previously ascertained. The Department was conducting 40 or 50 different works at the same time, and it was impracticable to make the expenditures upon each always correspond precisely to the appropriations. If any officer of the Government was excusable for transgressing the line, it certainly was the Secretary of War, and Mr. E. could not but feel sorry for the severity of remark in which the gentleman from Kentucky [Mr. HAWES] had indulged himself towards that officer. As to the objection that these surveys went practically to sustain the system of internal improvements, it was on that very ground that Mr. E. voted for it, and he would conclude by remarking, with the gentleman from Indiana, [Mr. BOON,] that he, too, had voted to lay the bill on the table; and, if this item for surveys should not be adopted, he should do so again.

Mr. WISE, of Virginia, moved to lay the bill on the table; but withdrew his motion at the request of

Mr. COULTER, of Pennsylvania, who said that he had voted against this section of the bill when it was last up before the House; not that he was opposed to internal improvements, as such; he had no constitutional scruples, none whatever; he was always disposed to go for what he considered as just and proper objects of internal improvement; but he must vote against the present appropriation. He had been desirous of obtaining the floor, that he might state the reasons of his vote; but standing on the north side of the House, it had not been his good fortune to catch the light of the Speaker's countenance.

Mr. C. said that, if he interpreted the act of 1824 in the same manner as the gentleman from New York, [Mr. BEARDSLEY,] he should have no difficulty; but he considered that act as satisfied; its force expended; it was *functus officio*. But what principle had the House established this very session? On the motion of the honorable gentleman from Massachusetts, [Mr. ADAMS,] the House had decided that it was improper to put any thing into an appropriation bill which had not previously been sanctioned by some other law. It was the true function of an appropriation bill to apply the public money to objects ordained by law. So it had been understood by the country. But what had been the course of things in relation to these appropriations for surveys? Ever since Mr. C. had been in Congress, the subject had every year undergone a new discussion, whenever the survey clause was under consideration; insomuch that other objects of general appropriation had often been defeated by the debate on this topic. But if the law of '24 was not expended, and *functus officio*, why was the discussion renewed every year? If it had been admitted to be a currnet law, there would have been an end of the dispute. But it was always good to correct a bad habit. It was better to stop this annual appropriation till the object was provided for by a general law. After such a law should have been passed, the appropriation would be a mere thing of course. It was for the interest of the country that the question should be settled and not left open to everlasting dispute. Then all would look up to it as the fixed policy of the Government; the habits and wishes of the people would gradually settle down upon it. There was another consideration, which had satisfied Mr. C. of the impropriety of this appropriation. Gentlemen might say what they pleased, it certainly did produce a bargaining between different portions of the House. It naturally and inevitably led to the practice generally designated as "log-rolling." One set of gentlemen had one object at heart; another disapproved of it, but had another measure equally desirable to them; a bargain was forthwith struck up between them; if you vote for our object, we will vote for yours; the result of which was an act of legislation in favor of objects which a majority of the House actually disapproved of. The legislation of the House was not, what it should ever be, the act of the general consent of a majority. Were there no other objection but this, Mr. C. must oppose the amendment. He was ready and willing to vote for any object that was proper and consistent with the views of any large portion of the country; but he was opposed to this matter of log-rolling and bargaining away the public money.

Mr. VINTON, of Ohio, said he desired to throw himself upon the attention of the House for one minute, to notice the construction put upon the act of 1824, commonly called the survey act, by the gentleman from Pennsylvania [Mr. COULTER] who has just taken his seat; which would be likely to have an influence on the House, on account of the respectable source from which it came. The gentleman avows himself in favor of internal improvements, but finds himself unable to vote for the proposition to appropriate the sum of $29,000, to prosecute surveys for roads and canals; because he thinks the act of 1824 is at an end, and there is no law to justify the appropriation, without further legislation antecedent to the appropriation, and requiring it to be made. Mr. V. said he was sure the gentleman had fallen into an error, by considering the sum appropriated by the act of 1824 as the object of the law, instead of the means of executing the act. That act authorized the President of the United States "to cause the necessary surveys, plans, and estimates, to be made of such roads and canals as he may deem of national importance in a commercial or military point of view, or necessary for the transportation of the public mail." These are the objects of the act, and, to execute these objects, the sum of $30,000 was appropriated by the act. It would seem to be very apparent, that a true construction of the act would require that, if that sum were insufficient to execute its objects, a further appropriation may be made for that purpose in the same manner we are in the constant habit of making additional appropriations for other objects, where the first appropriation was found insufficient. Such has been the practical construction of the act of 1824, as additional annual appropriations have been made in execution of the act for the last ten years. Mr. V. said he was here when the act of 1824 was passed, and he well remembered objection was made against the passage of the bill, on the ground that it would be followed up by further indefinite appropriations to execute the objects of the bill. The bill was distinctly advocated by its friends, on the ground that it was to be the foundation of a system of internal improvements, and that the sum of $30,000 named in the bill was intended only to indicate the sum which could be economically expended by the engineer corps that year, in the prosecution of surveys. The act was regarded as a permanent act, requiring much time to accomplish its objects; not a temporary law, to have an existence for a single year only, as the gentleman from Pennsylvania supposes; and as he

declares himself to be in favor of the object of the appropriation, and places his opposition to it wholly on the ground that the act of 1824 has expired, he could not but hope the gentleman would review his opinion in that particular, and that the friends of the motion would yet have the aid of his vote.

Mr. WISE now again moved to lay the bill upon the table.

The CHAIR now stated that the amendment formerly offered by Mr. MASON had not been strictly in order, inasmuch as the motion of Mr. MERCER was, in fact, an amendment to an amendment.

Mr. WISE now moved a call of the House; which was ordered. And the House was called accordingly. The call having, after some time, been suspended,

Mr. W. withdrew his motion to lay the bill on the table.

Mr. CLAY, of Alabama, read a report from the War Department, stating that to complete the construction of all works of internal improvement for which surveys had been made, and which were in progress, would cost $52,153,000, besides $48,600,000 for works not commenced. He read this statement twice, laying great emphasis upon it, and then asked whether it was worth while for the House to go on appropriating, from year to year, for new surveys, when the surveys already made overran, by millions, the appropriations for completing the objects? He adverted to the excess of appropriation the last year.

Mr. BEATY inquired of Mr. CLAY, what had been the estimate for the improvement of the Muscle shoals, in his State of Alabama; and what amount of the public lands had been appropriated to provide for it? And whether the gentleman was satisfied with the appropriations made for that river, and was determined that none should be made for any other river in the country?

Mr. MERCER said the gentleman from Alabama had amused the House with extracts from a report made in January, 1831, one of the most extraordinary documents that ever had been sent to that House, or any other legislative body. It was made out in reply to a call similar in its terms to one which Mr. M. had had the honor to offer a few days since. The gentleman from Alabama had told the House, on the authority of that report, that the completion of works already surveyed would exceed fifty-two millions of dollars; just as if that House, or any human being, contemplated the construction and completion of all the works which had been surveyed! The gentleman well knew that no such purpose was in the mind of any body. The items of the report were of the most extraordinary kind. Among them, for example, was an estimate of two millions and upwards for a canal from Baltimore to the Potomac! A work for which one dollar of appropriation had never been asked, and all thoughts of which had been abandoned five years ago. The survey, indeed, had been made; and, in consequence of the results of that survey, a railroad had been resolved upon, which was now in progress. The next item was an estimate of twenty-two millions of dollars for the Chesapeake and Ohio canal; of the accuracy of this the House might judge, when they learned that twenty-two millions of the amount was for a part of that work which had been actually effected for little more than one million. This was a pretty fair measure of the fairness and truth of the other estimates, to which the gentleman from Alabama [Mr. CLAY] had called the attention of the House. It included works which had been surveyed for the State Governments; works which had been surveyed for private companies; works which the survey had proved to be inexpedient or impracticable; works, all thoughts of which had been relinquished for years and years. Such was the paper the gentleman had brought forward, and on which he had based his appeal to the fears of the House. Mr. M. must be permitted to say that it was the most erroneous, the most unfounded, and altogether the most extraordinary report which had ever been submitted to the House from any Department of the Government. If such were the estimates on which that gentleman relied, he was entirely welcome to them, and to all the impression they could produce. The inattention of gentlemen to facts on this subject, their ignorance of the most familiar knowledge in relation to it, was truly surprising. A gentleman from Pennsylvania, [Mr. COULTER,] for example, had said that every time this appropriation for surveys had come up in the House, it had occasioned a long and earnest debate; and on this supposed fact the gentleman had mainly rested his argument. So far was the gentleman from being correct, that Mr. M. affirmed, in his place, that the present was the very first debate which had ever taken place in relation to this appropriation, since it had first been introduced in 1824. And of what did the debate mainly consist? Of loose statements, unsupported by facts, of extended amplification, and fine flourishes of rhetoric. But few gentlemen looked at the figures, the stubborn statistics of the subject. They contented themselves with generalities; they skimmed over the surface, and then went into declamation about lavish and useless expenditures. Mr. M. forbore entering into a particular reply to what had been said. He would not dwell upon the value of a correct knowledge of our own country, and an acquaintance with the best mode of enabling its inhabitants fully and speedily to develop its resources. But he would remind the gentleman from Alabama, after his long parade of estimates, so eminent for their sober accuracy and accordance with fact, that, of all the long list of objects surveyed, the Government had embarked in but four only. For the Pennsylvania canals and the Ohio canals not a dollar of the money of this Government had been expended; and the largest grant ever made by it to any work of internal improvement had been made for removing obstructions in the Tennessee river, in the gentleman's own State. With what grace such strenuous objections came from such a quarter, Mr. M. would leave for others to judge. On the constitutional question, gentlemen had taken up some incomprehensible notions, about the distinction between fresh and salt water. The motives of their argument Mr. M. could never understand. How improvements were constitutional where salt water flowed, and unconstitutional where fresh water flowed, was a mystery he did not pretend to fathom; but, in practice, it was a serious matter, inasmuch as on the basis of such a distinction it was attempted to exclude the entire West from all participation in the beneficent action of the Government, which were freely extended to other portions of the Union. If such a doctrine was to prevail, Mr. M. must abandon the system. He was opposed to the prevailing system of log-rolling among gentlemen who had a local interest in particular harbors, while all the interior of the country was to be neglected. Mr. M. was not a western man; he was from the seaboard; yet he should scorn the thought of therefore confining his support to objects on the coast. He had always acted on these principles; he considered them alike the principles of justice and of sound policy.

Mr. CLAY, in reply to what Mr. BEATY had said respecting his not having opposed the appropriation for removing the obstructions in Tennessee river at the Muscle shoals, could inform that gentleman that he had not been a member of the House when that appropriation was made. He therefore had had no opportunity of opposing it, though ever so much inclined. And as to the fact that some of all the works and projects surveyed had turned out to be of practical utility, it did not thence follow that Congress was bound still to go on surveying more from year to year. The gentleman from Virginia had reminded the House that there was no canal in progress from Baltimore to the Potomac. It was very true; but had the railroad, which was to take its place,

cost the Government nothing? Had there not an item been moved to give $130,000 to this railroad? And had not a million been very modestly asked, to aid the Chesapeake and Ohio canal? He should not go into the particulars of the gentleman's speech, but he still insisted, after all that could be said, that the Government possessed surveys enough to occupy it for the next fifty years.

Mr. BEATY admitted that the gentleman could not have voted against appropriations before he was a member of the House, but he would change the inquiry, and he now asked the gentleman whether a large appropriation of the public lands had not been made for the benefit of the State of Alabama since the gentleman had had a seat upon the floor? And whether the gentleman, when he had a vote, had given it against that appropriation? And he further wished to ask the gentleman, how much of the land given had been surveyed and brought into market?

Mr. CLAY made no reply.

Mr. HANNEGAN declared himself in favor of the amendment. The gentleman from Pennsylvania [Mr. Coulter] seemed to be under a belief that the entire system of surveys and of internal improvement was a system of log-rolling. Mr. H. believed no such thing; and he now declared, with his colleague, [Mr. Ewing,] that, unless this item should be adopted, he should vote to lay the bill on the table. If the House, by refusing an appropriation for new surveys, should virtually declare that the system of internal improvement was to stop, let it stop now--let it stop here; he would not give another dollar to continue it in the old States, when it was refused to the new. Millions upon millions were voted away upon the Atlantic States; yet, when the West asked a small sum to be applied in obtaining valuable and important information for the improvement of their portion of the Union, opposition was made, and that from a quarter he had little expected. Had not the State of Alabama received more in value, if not in money, from the general fund, than any other State in the Union? And would the gentleman [Mr. Clay] vote against giving her still more? If he did, then he would exhibit something like consistency; but the gentleman would promise no such thing; and yet, after getting immense grants of valuable lands, for the improvement of his own State, the gentleman had the consistency to stand up in his place and violently oppose even the survey of rivers or canals in other States. Where had been the opposition, the scruples, and the zeal of gentlemen from the South, when the appropriation for Savannah river was under consideration? Then the gentlemen were mute. Not a word, not a syllable, not a sound escaped them. But let a measure be proposed in which the young and rising States of the West had an interest, and not only was it resisted, but the representatives of these States were insulted by being called "beggars," and their States represented as "begging" at the door of Congress. He denied the charge. He cast it from himself and from his colleagues. Give us our lands, cried Mr. H. Give us our own soil, and the same rights of sovereignty as were enjoyed by the other States, and we will ask nothing at your hands. Make us equal with yourselves, make us sovereign, make us free, and we will never ask a dollar out of your treasury.

Mr. PIERCE, of New Hampshire, now moved the previous question; but soon after consented to withdraw the motion, at the request of

Mr. WAYNE, of Georgia, who explained his vote on the Savannah river. The work done there was entirely distinct from such works as were contemplated by these surveys, or were usually included in the system of internal improvement. The work consisted simply of taking up out of the harbor, at the mouth of the river, certain artificial obstructions which had been placed there during the Revolution, as defences against British cruisers.

Mr. PIERCE now renewed his motion for the previous question; but the House refused to second it: Ayes 54, noes 86.

Mr. DICKINSON, of Tennessee, referred to what had been said when other items for surveys had been before under debate. Gentlemen had then given notice that it was expected that all who were opposed to continuing the system of internal improvements would vote against this appropriation. And the clause had been voted down; on which the House had instantly laid the whole bill upon the table. What, then, was the present but a test question? The vote upon it would show who were for and who were against the general system. The people of the West wished to know this. They wanted to know where gentlemen stood. It was manifestly impossible for the South to put down this system, if the North and the West united in its favor. Let it, then, be clearly understood what gentlemen meant to do; and the sooner the better.

[The noise here was great. Cries for the question had long been heard, whenever a gentleman who had been speaking resumed his seat; and not more than half of some of the latter speeches could be intelligibly heard at the reporters' seats.]

Mr. MERCER rose to repel the idea that gentlemen who voted in favor of this item would set themselves in array against the presidential veto. That veto had nothing whatever to do with the present question. It had no connexion, immediate or remote, with it at all. The veto might stand unimpeached and unresisted, though the whole country should be surveyed.

Mr. WISE inquired of Mr. Mercer, what amount of money would be requisite to carry into effect the surveys which had been already made? His colleague had desired the estimates of the report read by the gentleman from Alabama, [Mr. Clay.] He should be glad to hear the gentleman's own estimate. He asked the gentleman to say what was the truth on that subject?

Mr. MERCER replied that he had objected to the estimates read by the gentleman from Alabama, on two grounds. First, their gross inaccuracy; and, second, because the gentleman did not understand the paper which he had undertaken to read to the House. The object of the surveys had not been to provide objects for the action of the General Government; many of them were for objects with which the United States had nothing to do. Applications had been made for the surveys, because the body of officers, employed by Government on that subject, were known to possess the requisite science and experience. As to the sum that would be required to construct every work that had ever been surveyed, it was what nobody could calculate. There were no data for such a calculation; and, if it could be made, it would be wholly irrelevant, and had nothing to do with the question before the House.

Mr. WISE said that his colleague had not answered the inquiry put to him. His question had been evaded. As the gentleman had avoided any declaration of what it would cost to complete the works already surveyed, Mr. W. should take the liberty of discussing the question. He did not care how many important bills remained unacted upon; he did not care if it was the fag end of the most disgraceful session of Congress the country had ever witnessed; he would not consent, after a gentleman had risen and declared the present to be a test vote on the question of continuing the present system of internal improvements, to abstain from the exercise of his privilege of debate on that floor. The men of the South had been challenged by northern representatives, and they had not stood by their colors. He might be considered as too young to enter into such a combat; especially when he saw that every man tripped who came in collision with his colleague, [Mr. Mercer.] That gentleman, it seem-

ed, was able to put them all in the wrong; and yet, when called upon, he refused to show them what was right. Thirty thousand dollars a year had now been expended, for ten years, upon the continuance of these surveys; and his colleague was perfectly right in saying that no tongue could tell the amount which would be required to finish the works already surveyed. The gentleman had frankly admitted that many of these surveys had been made for objects which nobody dreamed of carrying into effect. No doubt it was so; and no doubt it would continue to be so, until the system should be put down. There never would be wanting representatives on that floor, who would find it to their interest to tickle their constituents with the straw of some promised work of internal improvement. When such representative returned to his district, and was asked by his constituents whether the work was to go on, he would have this ready reply: No appropriation has yet passed, but I have got an order for the survey. The survey would be made accordingly, and that would be the last that ever was heard of the promised work. The survey, however, had done its office; it had secured the member his seat in Congress; and some centuries hence, perhaps, the improvement might be made, and might prove very useful to our remote posterity.

But it was on the constitutional ground that Mr. W. must enter his protest against the whole system, in all its parts. He knew that it was defended on the ground that these works were national in their character, and that this rendered them constitutional. This, to borrow a phrase from his friend behind him, [Mr. VANDERPOEL,] was "all humbug." It was just like what was said about a judicious tariff. It meant "every thing by turns, and nothing long." The whole system, as actually conducted, was nothing but a great scheme of log-rolling. It was essentially unequal. It never could be impartial in its character; and such were its native tendencies, that it must inevitably become a system of corruption; a matter of bribe and purchase throughout. The whole thing was unconstitutional. And this annual appropriation for surveys was the nucleus round which the entire mass was accumulated; the germinating point and principle from which the whole took its start, and went on continually extending and increasing. The process reminded him very much of that system of robbery which was carried on by lotteries. A man would buy a ticket, and would perhaps draw one-fifth or one-fourth of the amount he had paid in; encouraged by this success, he was led to reinvest, and thus went on until he had spent his whole fortune. Thus, an appropriation would be made, in the first instance, for a road or a harbor. The Department would be sure to spend the whole of this appropriation, and something more besides. The year following the House would be asked to provide for the excess, under the name of arrears, and at the same time were told that they must appropriate a little more, or else all they had given would be lost. The House gave accordingly, and next year the same story was told again. And thus the system was perpetuated.

Gentlemen had called this a test question. Agreed: let it be a test question. It was a favorable juncture to make it a test question. There were candidates for the presidency from all quarters of the Union, and many of their friends relied upon this system of corruption to secure their claims. Let gentlemen now show their colors. This was the time for the South to act. He knew that it was held by many to be perfectly ridiculous to take the naked constitutional ground. He did not think so. He hoped the South would always take that ground. But be that as it might, he for one would take it, if none else did. He wanted to see how gentlemen would move. Men of New York, cried Mr. W., how will you go? Will you join Virginia on this question? Men of Ohio, what say you? He need not call upon the South; he was sure that every southern name would here be enlisted on the side of the constitution.

[Mr. W. said much more, which it was impossible to report; for no sooner had he alluded to the presidential question, than a sound pervaded the hall like that of a hive disturbed, and much of what he afterwards said was drowned and lost in the hum of private conversation.]

Mr. CLAYTON now rose and said that the men of the South had been reproached with forsaking their colors. If such a reproach was in any degree merited, he trusted it would be wiped off that day. He was well aware that their course had been complained of, as too rash and precipitate; and they have been told that, if they would but wait, they might obtain all their objects peaceably and without violence. He now called upon gentlemen, who had held this language, to come forward to their aid, or no more to reproach them on the subject of southern remedies. Of those remedies gentlemen might think as they pleased, but, as sure as God was in heaven, they would again be resorted to, if it was attempted to fix this system upon the South. Gentlemen, who had talked to them so eloquently about patience, and peace, and union, and who had held out prospects of speedy release, were now there; they stood with him on that floor. I call upon you, cried Mr. C., to redeem your pledge. Now is the day, and now is the hour. I warn you that the South never will support this system nor endure it. We told you so respecting the tariff, and we have carried that object. We tell you so respecting internal improvements, and this object also we shall carry. I say to those who hear me, put down this system by your votes; if not, we shall put it down in some other way.

Mr. BEARDSLEY said that it seemed that the question now before the House was not only to be a question of nullification, but also a test question on the presidency. The friends of the administration must, it seemed, prepare to meet the whole opposition, rank and file. It was to be a test question as to the next presidency: so said the honorable gentleman from Virginia. It was to be an opportunity for all who were against the administration, to come out and show themselves; and, of course, those who were in its favor, must do the same. It was a system which had not only met the sanction of the Senate for the last four years, but of the President also. Yes, of the President. He knew that the President had put his veto on certain local objects. And that veto had Mr. B.'s hearty approbation. But the President had signed this same item for surveys every year since his first coming into office. He had approved an appropriation, in the very same words, last year, and now gentlemen were called upon to vote upon this appropriation as a test question. His colleagues had been invoked to put down the system, and it had been fulminated from the South, that, if they refused to do so, it should be put down by nullification. Now, it happened that, on this question, the last administration had been at least as deep in the mud as the present administration was in the mire. And he really could not have believed that, even by the eloquence of the gentleman from Virginia and the gentleman from Georgia, this matter could ever have been wrought up into a test question on the next presidential election. Such, however, was the warning given, and they must look to it. If the vote should fail, the present administration must go down. He should be very sorry, but he could not help it. Such was the aspect in which the matter must be viewed. And if so, it would seem, in the votes of the House thus far, that the present administration had lost the public confidence, and must go down; and that the administration which was to follow it would be opposed to the system of internal improvements. He did not exactly know how the nullifying gentlemen had voted on this occasion. The yeas and nays, however, by which the item had formerly been

rejected, would show. Those who had voted the other way must, he supposed, be reckoned as in favor of internal improvements, blended with the tariff. At all events, gentlemen had insisted on making this a test question, and the vote would presently show what was to be the character of the next administration. This was the gentlemen's own ground. They had themselves chosen it, and no doubt they would abide by it. For himself, he should have the hardihood to vote for the appropriation in the face of all the formidable denunciations which had been uttered.

Mr. JONES, of Georgia, said that he was not surprised that the question now to be decided should have been considered as a test question by the gentleman from New York, [Mr. Beardsley.] If he was not mistaken, he had had the pleasure, only two days before, of voting with that gentleman against this appropriation, and it seemed somewhat strange to him that the gentleman should so soon have turned completely about. What could have produced the change? The gentleman, it appeared, had understood the gentleman from Virginia opposite, [Mr. Wise,] as making this a test question in regard to the next President. Now, Mr. J. had not so understood him, but had supposed that, in calling it a test question, he had had reference alone and exclusively to the system of carrying on internal improvements by the General Government. He had certainly supposed that, on the present occasion, he had the gentleman from New York with him; for the gentleman had voted down both the 30,000 dollar item in the original bill and the 29,000 dollar amendment. But, since then, "a change had come over the spirit of his dream;" and, sure enough, the change had happened in the night time: for in one night the gentleman had been converted from a decided opponent into a warm advocate of this measure. As to the gentlemen from Virginia, from Pennsylvania, from Indiana, and from New York, he supposed they had found out the measure to be proper, by force and virtue of the argument of log-rolling. It was presumable that some gentlemen had said to certain other gentlemen, if you will vote for our surveys, we will vote for your Oswego harbor. But, Mr. J. would ask whether that was a fit and worthy principle for this House to act upon. Was it worthy of a representative on that floor to hold language like this? "I do not believe that this appropriation is right, and, on that ground, I voted two days since to lay it on the table. But, if you will give up your objection to the bill, I will give up mine. And if A, B, and C, will do the same, we will carry a reconsideration, and get the bill up again." He admitted that such an argument was strongly addressed to individual interests, but he asked whether it was not, after all, mere bargain and sale.

It was said, however, that this appropriation was intended merely to carry into effect an existing law. He should briefly examine that question.

Mr. J. here quoted the law of 1824, and insisted that the appropriation there made was for the purpose of carrying into effect the whole of the objects specified in the law, and that no farther appropriation was implied by the the law, or could be justified under it. He scouted the idea of giving the law any other interpretation. He understood that a part of this appropriation was to pay for services already rendered, and insisted that the appropriation ought to be confined to that object alone. The gentleman from Vermont, however, [Mr. H. Everett,] had let out the true reason why this item was so strenuously insisted upon. It was the key-stone to the whole system, and the retaining of it went to show that it was intended to keep up the system. Mr. J. did not know how to approach such an enactment with nullification, or he would with pleasure do it. It must be obvious to all, that, if the system of internal improvements was to be persevered in, the tariff must again be brought to its support. The compromise which had been arranged was to be broken in upon. In that case, nullification could and would be applied. The South had abated one public nuisance, and when they had consented to the compromise, they had been assured that another would be taken away. The tariff had been put down, and they were promised that internal improvements should be abandoned. Now, however, there appeared to be an intention to retain and to re-enact it. Mr. J. asked the House to pause, and not to drive to extremity a portion of the population of this country, who were sufficiently strong to protect themselves. The Government had been made to feel that the power of a State was adequate and sufficient to prevent oppression, when it should become too heavy to be borne. He concluded by expressing his hope that gentlemen, in giving their vote upon this item of the bill, would do so, uninfluenced by any thing else it contained.

Mr. WISE said that he rose for the purpose of making an explanation, which, indeed, had in part been already given by the gentleman from Georgia, [Mr. Jones.] He would say to the gentleman from New York, [Mr. Beardsley,] no tricks upon travellers. He had, to be sure, given a turn to the debate which would present it in the form of a test question. But he had no idea of making it a test, as between the present administration and the present opposition. The gentleman from New York had expressed surprise that it should be so considered. If that gentleman would make his disclaimer, Mr. W. would bow assent. He must, however, be permitted to say that he greatly doubted whether such a thought had not entered that gentleman's mind long before to-day. They had had the latitudinarian, and the friends of a certain candidate, upon the saw. To get rid of the difficulty, the gentleman had thrown a tub to the whale. It might be presumed that the gentleman was opposed to the system of internal improvement, for he had voted to reject this annual appropriation of 30,000 dollars. But, no sooner had that motion succeeded, than the whole hive rose upon the gentleman, and put down his New York harbors. And then the gentleman was obliged to club with his opponents, and get a reconsideration. The gentleman had thought it pretty plain before, but it was plainer now. For his own part, he, in his simplicity, had been talking to some gentlemen in the lobby, and, as a southern man, had been chuckling over the hope; but the gentleman to whom he had been speaking had assured him that he did not understand the matter, and that the real question was, which of the two divisions of the House, the national republicans or the New Yorkers, should take the responsibility of defeating the bill. Mr. W. was now quite sure that in this he was not mistaken; and he ventured to prophesy that the gentleman from New York [Mr. Beardsley] would not get his Oswego harbor unless the House should insert this item for surveys, which would be equivalent to establishing the principle of internal improvements. The gentleman, therefore, should not succeed in hiding himself behind a curtain, and making it appear that this was a test question between the administration and the opposition. For, though the gentleman was strongly in favor of the administration, he will find that, on this question, the opposition will vote with him.

In the union for this system of plunder there were "white spirits and black, blue spirits and gray," and the motto was "mingle, mingle, mingle; you that mingle may." It had been said by some, that they did not know how Virginia stood in this matter. Mr. W. wanted to see what portion of Virginia, and of the South, were friends to this system, and who were opposed to it. In that respect it was a test question, and should be made a test question in all that part of the Union south of the Potomac.

Mr. BYNUM was sorry that this reference to the North and South had been introduced. He did not believe, nor did the South believe, that the question had any thing to do with the presidency. He certainly should not vote upon it on any such grounds. He considered it both as a question of expediency and as a constitutional question. A gentleman from Georgia [Mr. JONES] had told the House that the South would nullify the system of internal improvement. Now, though Mr. B. was as much opposed to the system as that gentleman or any other gentleman could be, he hoped the South would attempt no such thing. He trusted, indeed, that, as a question of economy, the whole South would now act as one man in expressing their disapprobation of the measure; and he called upon all the friends of an economical Government, and all friends of the constitution, whether in Georgia or in Ohio, to unite with him in voting it down at once.

Mr. BEARDSLEY said he had been aware of the apparent effort to identify this appropriation for surveys with the entire system of internal improvement. The gentleman from Vermont [Mr. EVERETT] and the gentleman from Maine [Mr. SMITH] had concurred in that view, and all the friends of the American system had taken the same ground. Mr. B. could not so regard it. He did not consider it as connected with the system of internal improvement, whether in the larger or more restricted interpretation of that phrase. If it was, then where did the present administration stand? For the President had certainly four times signed acts containing this very item. What was known as the system of internal improvement was connected with works of a local nature; but this appropriation referred to national objects only. The friends of the larger American system would have this item to be a part of that system. Mr. B. insisted that it was not. He should stand by the administration, nor should he desist from voting for this item because gentlemen in the opposition might vote for it as a part of the general system. It was true that he had at first voted to keep this item out of the bill; but he did not at that time understand the bill, having but slightly examined it. Nor did he at that time know that a part of the money was to pay for services actually rendered. As to the suggestions of the gentleman from Georgia, [Mr. JONES,] he had nothing to say. The gentleman could make what comments he pleased on Mr. B.'s course. But when Mr. B. should find it necessary, on one day, to vote that, from his own personal examination of the case, A B was entitled to a seat on that floor, and on the very next day to declare that he did not know, and that it was impossible to tell, whether A B or X Y was entitled to the seat, he should then consider himself as in a better situation to be catechised by the gentleman.

Cries for the question were now loud and unceasing; and it was at length put, on adopting the amendment moved by Mr. MERCER, appropriating 29,000 dollars for the continuance of surveys, and decided in the affirmative, by yeas and nays, as follows: Yeas 103, nays 87.

So the amendment was agreed to, and inserted in the bill.

Mr. MARSHALL thereupon withdrew his motion to lay the bill on the table.

Mr. BEATY now moved to insert 50,000 dollars for the improvement of the navigation of the Cumberland river above Nashville, as far as to the head of steamboat navigation.

Mr. HAWES made some suggestion to Mr. B., which was not heard.

Mr. BEATY said that the river below Nashville had already been examined. The object of the present motion was to extend the examination, and complete it, to the highest point of steamboat navigation. Mr. B. pleaded with earnestness in favor of his favorite measure; and reminded the House that Pennsylvania had got over 400,000 dollars, New York above 100,000 dollars, Georgia 25,000 dollars, while 30,000 dollars had been appropriated for a river in North Carolina and Virginia. He did not complain of these acts of appropriation; he entirely approved of them all; but he insisted that the House ought to regard with the like favor other claims which were equally just. He said, however, that he was willing to reduce the amount to 25,000 dollars, instead of the original sum proposed; and he modified his motion accordingly. He then demanded the yeas and nays; but the House refused to order them.

Mr. MERCER said that the House had appropriated 10,000 dollars to the survey of this river, which amount had been expended below Nashville. He had originally been opposed to the appropriation, but the House had overruled him; and, as the work had now been commenced, he should not offer any opposition to the present amendment.

Mr. BEATY further explained, and warmly advocated his amendment.

Mr. HUBBARD observed that the proposition had never been submitted to the Committee of Ways and Means.

Mr. FILLMORE asked if there had been any survey and estimate?

Mr. BEATY replied and explained. A survey had been made of the river as far as Nashville, and an estimate of $30,000 submitted: he desired to extend the improvement up the river to the head of steamboat navigation.

The yeas and nays were now ordered; and, being taken, stood: Yeas 85, nays 95. So the amendment was rejected.

Mr. ASHLEY now moved to insert an appropriation of $25,000 for the improvemeut of the harbor of St. Louis, Missouri. He said that he had offered a similar amendment when the bill had been in Committee of the Whole; but it had not, at that time, been generally understood. He now repeated the statement he had then made. The harbor had been surveyed, and the engineers had reported in favor of the improvement. He need not remind the House that St. Louis was one of the most important points in the whole West. Yet its harbor was in danger of being destroyed by a sand bar which was constantly accumulating, and which, if not arrested, must soon fill it up entirely. The Legislature of the State, as well as the corporation of the city itself, had memorialized Congress on the subject, setting forth its importance and urgent necessity. The survey had been laid before the War Department. The superintendent of the improvement of the Mississippi, Mr. Shreve, had personally examined the nature of the obstruction, and was in favor of the plan for its removal. The Committee on Roads and Canals had also examined the plan, and reported favorably upon it to the House. Mr. A. said he held in his hand, and would send to the Clerk's table, the memorial of the city, and the letter of the superintendent, which he desired might be read.

[Cries of no! no! and much confusion.]

Mr. A. said, as the House seemed indisposed to hear the papers read, and it was late in the day, he would not insist, but would content himself with asking for the yeas and nays. They were ordered.

Mr. POLK stated to the House that the present bill was intended to comprise works already commenced, and these only. There was another bill reported from the Committee on Roads and Canals, which contained new works for the improvement of harbors, &c. The item now proposed by the honorable member from Missouri [Mr. ASHLEY] was contained in that bill, which was now in Committee of the Whole on the state of the Union. He did not wish to see the present bill loaded with a class of objects intended for another bill, and its passage there-

by put in jeopardy. He was actuated by no particular opposition to the present measure, which, for aught he knew, might be very useful and necessary. But he went on the general ground he had just stated, in evidence of which he would advert to the fact that he had voted against the appropriation for the Cumberland road, though that road passed his own door.

Mr. ASHLEY considered the remarks of the gentleman from Tennessee as very uncandid and unfair. No gentleman in the House, who knew any thing of the situation of the harbor of St. Louis, would say that there could be a more meritorious object in the country. The people of that part of the Union expected this appropriation, to enable them to save their harbor from ruin. In the other bill the improvement of the Missouri river was inserted, but not the removal of the sand bar from this harbor. It was most necessary to the trade of the whole river. St. Louis was a port of entry, and an immense business was and must be done there. Yet all goods had now to be transported, at a great expense, down to the arsenal below the town, and even there the obstruction would soon be formed, unless its progress should be stopped. The harbor would be destroyed in the course of a few months, if Government refused to interfere.

The vote was now taken, and resulted as follows: Yeas 72, nays 96. So the amendment proposed by Mr. Ashley was rejected.

Mr. HAWES moved an amendment appropriating $25,000 to the improvement of the navigation of Green river and Big Barren river, in the State of Kentucky. He warned the House that he was not going to make a speech "for Buncombe:" and if he had not the best cause that ever had been brought upon that floor, and the best constituents within the wide limits of the United States—

[Mr. Sutherland. Except mine.]

No, sir, I cannot except his, or any other man's. Well, sir, the United States engineers were once ordered to survey these rivers, and they performed the task to the best of their knowledge. And what do you think was the result? Why, sir, when these learned gentlemen returned to this city for the purpose of preparing their report, not one of them could understand his own notes! And, in consequence of this, the Department were unable to lay a report and draught of the survey before the House. There was no want of money and no want of time spent in the survey; and certainly there was no want of ignorance on the part of those who made it. They had notes, it seemed, of some sort; but no man could understand his own. But for this state of things, we should have had a survey and map long before now. Well, sir, the people of Kentucky, not having confidence in the engineers of the United States, employed one by their own funds; and they obtained a competent and skilful officer from the State of Pennsylvania. He could understand his notes, and made a report to the Kentucky Legislature. In that report he declares that the waters of Green river, at their high stage, are navigable for steamboats, and might be so during the whole season, if these obstacles, occurring in different parts of the stream, were removed. The stream was 150 miles in length, and the United States engineers stated its average depth at 22 feet. It would cost only $75,000 to remove the obstructions. The State had already appropriated $50,000, and they looked to Congress with the confident hope of obtaining the remaining $25,000. Mr. H. hoped there would be no objection to this small amount. He wished, he said, that every gentleman who then heard him was on the banks of that river. He was well assured, if they once could see the spot, they would be so transported at the scene that they would be ready to subscribe the money as their own free gift. The banks of that stream were inhabited by the best population in the United States. He would except none. In the late war they had sent forth with alacrity a band of warriors to defend the people of the South. Should the Northern States ever undertake to oppress the South, the Southrons might rely upon their aid; and if, on the other hand, the nullifiers should grow cantankerous, these were the people who would be prompt to put them down. He demanded the yeas and nays upon the amendment.

Mr. POLK wanted to be informed whether this Green river in the gentleman's amendment was the little stream that ran past the village of Bowling Green? If it was the same he referred to, it was a "river" about two feet deep in the summer time.

Amidst the laugh occasioned by this remark,

Mr. HAWES rose to explain. He said that Green river did run past the town of Bowling Green; and he trusted the people of Bowling Green and Mumfordsville would not have reason to regret that it ran by their abodes. The gentleman might have crossed the river at a very dry season, when the waters were low; but the engineers had reported the average depth of the stream at 22 feet.

Mr. HARDIN went into a long constitutional argument in opposition to thel amendment. He stated, however, that, after the junction of Green and Big Barren rivers, they formed quite a considerable stream.

Mr. CHILTON said he should not have said a word but for the remarks of his colleague. He stated that by far the greater part of the commerce on those streams was not below, but above their junction. This commerce was of great importance to the interior of Kentucky. A portion of the streams ran within his own district. He felt, however, no great zeal on the subject of the amendment. He was no enemy to a judicious and well-regulated system of internal improvements. On the contrary, he had fought the battles of the system against its most determined opponents. But when he found that his State, which had strenuously defended the system, was to be refused all participation in its benefits, while others who had always opposed and reviled it were sharing all its advantages, his ardor was greatly cooled. And he should now enter the lists of opposition against all squandering of the public money; and should continue to oppose until he should see a disposition to do equal justice to all the States. He perceived very distinctly that it had been decreed, by the present dynasty, that Kentucky was not to receive one farthing.

Mr TOMPKINS now rose and addressed the Chair as follows:

Mr. Speaker: My constituents are deeply interested in the navigation of both the rivers mentioned in the amendment, and I, of course, feel much solicitude for its success; yet, after what has been said by two of my colleagues [Mr. Hawes and Mr. Chilton] in favor of the appropriation, I should not, perhaps, at this late hour of the day, have thought it necessary to detain the House by any remarks of mine, if the importance of Big Barren as well as Green river, above their junction, had been sufficiently appreciated by gentlemen. Of the former, especially, my colleagues, who displayed so much zeal in behalf of Green river, seemed to know or care but little; and the honorable member from Tennessee tauntingly inquired of the gentleman who introduced this amendment, whether Big Barren river was knee deep at Bowling Green, in the summer season? Sir, I can inform that gentleman, if he does not already know the fact, that the stream which he represents as so insignificant, has already been navigated by steamboats of considerable burden, in spite of the obstructions which it is the object of this amendment to remove; and the people of Bowling Green and the adjacent country have been thus occasionally supplied, to some extent, with salt, sugar, and other heavy articles, which they are usually obliged to have transported in

wagons, at more than double the expense, from Louisville. The navigation of Big Barren river, therefore, is not less important than that of Green river itself; and my colleague, who last addressed the House, said truly that the largest portion of the articles exported on these rivers is produced above their junction; and that the improvement of the navigation above the mouth of Big Barren is, therefore, not less for the interest of the country than below. Sir, Green river, which unites with Big Barren river about one hundred and fifty miles from the Ohio, is decidedly the most important navigable stream in Kentucky, whether we consider the facility with which it may be improved and rendered safe for the passage of steamboats, or the quantity and value of the property which must be transported through its channel to a market. When I say it is the most important river in Kentucky, I will, of course, be understood as referring to those which have their navigable course exclusively within the limits of the State; and of these, I repeat, it is decidedly the most important, without excepting that which gives name to the State. The principal agricultural product of the country is tobacco, of which a large quantity is annually produced and exported, and of such a quality as to have obtained already for the Green river tobacco a reputation little inferior, if not quite equal, to that of James river, in Virginia. Of this article, according to information received by me, of the correctness of which I have no doubt, there is annually raised, in the county of Barren, where I reside, about 2,000 hhds.; in the adjoining county of Green, justly referred to, by my colleague who represents it, as celebrated for the excellent quality of its crops, 1,800 hhds.; and in Warren, another adjoining county, 1,500 hhds. But, without being more particular, I will say that, in twelve or thirteen counties, situated above and a short distance below the junction of Big Barren and Green rivers, the average annual production of this article is between nine and ten thousand hogsheads, the value of which may be estimated at nearly $400,000; and the other surplus products of the country, consisting of live stock, Indian corn, pork, beef, and other articles of minor importance, will probably amount to an equal sum. And let it be remembered that the quantity of all these productions is continually increasing; for, as yet, not one-half of the good lands on the waters of Big Barren and Green rivers have been brought into cultivation. Mr. Speaker, the farmers and planters of that country are dependent on their rivers exclusively for the transportation of all this property to New Orleans, the only market accessible to them; and, according to the present uncertain mode of conveyance, in heavy flat-bottomed boats, the freight alone will amount to not less than twenty per cent. on the value of their property, to say nothing of the disappointments suffered, and the losses sustained, by the accidents and delays unavoidable in this species of navigation. I have stated the value of the tobacco annually exported at nearly 400,000 dollars, and all other articles together at about an equal sum. But, estimating the aggregate value of all the produce annually exported on the river from the counties mentioned, at 700,000 dollars, (which is certainly moderate,) the freight, according to the rate stated, would amount to the sum of 140,000 annually. This is an enormous tax on the labor of the husbandman; which, on the introduction of steamboat navigation, would be reduced at least one-half. For I understand that the freight paid on a hogshead of tobacco, shipped from Louisville to New Orleans, is only four dollars; whereas the planter is obliged to pay nine, and sometimes ten, dollars per hogshead from the neighborhood where I reside. And it is reasonable to presume there is an equal difference in the freight of other articles exported. But the reduction of the expense of exportation would be but part of the benefits the people would derive from the improvement of their rivers. There would be a farther and important saving in the expense of importing the commodities which the planters bring back in return for their crops, such as salt, sugar, and other articles necessary for the consumption of their families. From this view of the subject, I think it may be safely averred that the people whose trade is dependent on these rivers will actually save, in two or three years, by the reduction of the expense of the transportation of their property, which must follow the introduction of steamboats, a sum equal to the entire cost of improving the navigation of Green river, up to its junction with Big Barren, if the estimate of that cost, to which I shall presently advert, be correct, as I believe it is.

Mr. Speaker, it has been objected to this, as well as to other similar propositions, that the rivers proposed to be improved have not been surveyed by engineers acting under the authority of this Government; and that there has been no estimate submitted of the expenditure necessary to accomplish the work; and I understand, from some remarks that fell from the honorable chairman of the Committee on Roads and Canals, that his assent must be withheld from appropriations, in all cases where these objections exist. I know sir, that these preliminary steps have usually been required; but they surely ought not to be considered indispensable. It has not been the practice of this House so to consider them. On the contrary, Congress has, if I mistake not, frequently made appropriations for objects of internal improvement, on information derived from sources other than reports from the Engineer department. It has been usual to require a survey and report from the War Department, that the utility of the proposed improvement, and the practicability of accomplishing it at a reasonable expense, may be seen; but if we can by any other means get information on these points that ought to he relied on, I presume it is a matter of little consequence from what quarter it may be derived. It is true, sir, we have, in the present case, no report of a survey or estimate of expenditure formerly made out by the Department; but, as my colleague, [Mr. HAWES,] who offered the amendment, has stated, a survey of Big Barren and Green rivers has, in fact, been made by engineers acting under the orders of the Secretary of War, but a report was unfortunately prevented by the dispersion of the officers engaged in the work, immediately after it was finished, to different military posts situated at a considerable distance from each other, and from the seat of Government. Such, at least, is the information I have received.

The result of the examination made by these engineers was, as I have understood from good authority, every way favorable to the object now proposed; and their views and opinions correspond substantially with those of a distinguished engineer, afterwards employed under the authority of the Legislature of Kentucky, and who, in pursuance of his engagement, made an examination and survey of Green river, and a particular estimate of the expenditures necessary to remove the several obstructions to its navigation. The report of this gentleman, and another engineer with whom he was associated, has already been referred to by my colleague; and a report of the commissioners appointed by the Kentucky Legislature to superintend the work is also in my possession. It may be proper here to state, that the engineer to whom I have alluded is a distinguished citizen of Pennsylvania, whose eminent qualifications are, no doubt, well known to many honorable members of this House; and the commissioners are respectable, intelligent, and enterprising citizens, residing in the immediate vicinity of the river, some of them having intimate and experimental acquaintance with its navigation, and all of them well qualified to discharge the duties assigned to them.

Sir, it does seem to me that the reports of these engineers and commissioners, all of them respectable, compe-

tent men, and acting under their responsibility to the Government that employed them, are entitled to the full confidence of this House; and, from the information furnished by them, the practicability of improving the rivers mentioned in the amendment, so as to render them safe for steamboat navigation, at an inconsiderable expense, compared to the beneficial results, is made quite manifest. Green river is represented to be remarkable for the depth of its water and the gentleness of its current. From the examination made by the engineers, it appears that the average depth of Green river, for more than one hundred miles from its mouth, exceeds twenty feet. There is no river in the Western country for the navigation of which nature has done so much, and left so little to be performed by the art and industry of man. The navigation, as has been remarked by my colleague, is obstructed by rapids at three or four points on the river; none of them are very formidable, and all of them may be overcome, according to the opinion of the engineers, by the construction of three dams and locks, whereby, at a very moderate expense, a safe slack-water navigation may be obtained from the mouth of Green river to the junction of that stream with Big Barren river, a distance of about one hundred and fifty miles; and it is estimated that all the necessary works for this purpose may be completed at an expense of little more than $100,000. Such are the views of General Lacock and the gentleman associated with him, as set forth in their report; and they are, as I understand, corroborated by the opinions of the engineers who some years ago made a survey of Green river, under the orders of the Secretary of War; and they are confirmed by the commissioners charged with the superintendence of the work, who have made a report of their own. The utility and the practicability of the work, therefore, cannot be doubted. The able reports to which I have referred, although not proceeding from an Executive department of this Government, must, I think, be considered satisfactory, and worthy of the confidence of the House.

Sir, the importance of Green river, as may be inferred from what has been said, has already attracted the attention and employed the care of the Kentucky Legislature. Besides causing a survey to be made, they have appropriated, at different times, the sum of $75,000 towards the accomplishment of the work necessary to remove the obstructions to the navigation; and that sum, it is believed, in addition to the amount now proposed to be appropriated by this Government, will be sufficient to make the navigation of Green river safe and commodious for steamboats of two hundred tons burden, up to its junction with Big Barren river; an event from which incalculable advantages will be derived by a numerous and industrious population, and especially my own constituents; and I cannot but hope that so small a sum will not be refused by this House, when such extensive and important benefits are to result from its expenditure.

Some gentlemen, I know, have constitutional objections to this amendment, as well as to all appropriations for works of improvement. I shall certainly not attempt to remove them. These gentlemen have at least the merit of consistency, and are impartial in the application of their rule. But there are others who, without feeling any scruples as to the general power of Congress to appropriate money for objects of internal improvement, are yet disposed to make a distinction between improvements made on the seaboard or the lakes, and those on the rivers in the interior. These gentlemen can perceive nothing unconstitutional or inexpedient in the appropriation of money to facilitate foreign commerce; to render secure and cheapen the transportation of merchandise to and from our seaports, at which vessels arriving from foreign countries break bulk, to use an expression of one of my honorable colleagues, [Mr. Hardin;] but they consider it altogether inadmissible to apply any portion of the public money to the improvement of navigable rivers on the other side of the mountains, and, I must add, with regret, that this singular doctrine has been applied with peculiar severity to Kentucky. Hence, large sums are annually expended for the improvement of the navigation connected with the seaports and harbors on the lakes, while the State from which I come has been wholly excluded from all participation in such benefits. I do not mention this in the spirit of complaint, much less of reproach against any administration or any party, but intend only to state the fact, to strengthen, if possible, our claim to the justice, or, if you please, the liberality of this House. It is not, sir, my purpose to enter into any discussion of the constitutional question; neither shall I detain the House by a particular examination of the distinction that is said to exist in principle between the power to construct a breakwater in the Delaware, and to remove obstructions to the navigation of Green river in Kentucky. In my opinion, no such distinction is deducible from the constitution. If the grant of power to regulate foreign commerce gives authority to Congress to improve a harbor or erect a beacon on tide water, the power to regulate commerce between the States equally authorizes the improvement of a navigable river in the valley of the Mississippi. The power must be exercised in all cases where the interest of the people requires it, whether to promote the interests of foreign commerce or of commerce between the States, or it must be exercised in none.

Sir, the people of Kentucky have been the decided and consistent advocates of a wise and prudent exercise of this power, although they have never derived any special advantage from it. They pay their equal share of the revenue of the country, and have contributed their full proportion of the millions expended for internal improvements in the other States; but, unless a more liberal policy shall at length be observed towards that State, she will be compelled, in justice to herself, to withhold her support from a system, from the benefits of which she must be excluded.

All attempts that have been made to obtain for that State a portion of these benefits have hitherto proved unsuccessful; sometimes on pretence that there had been no survey executed, or no estimate made of the necessary expenditure; and sometimes it has been alleged that the work was not national, but local, and therefore inexpedient or unconstitutional. And it is possible that this last objection may have weight on the minds of some gentlemen in the present case; for Green river has its navigable course exclusively within the limits of the State of Kentucky; so has Big Barren river; and other works of internal improvement have been pronounced by high authority to be local, and therefore unconstitutional, on no better reason than this. But it will be borne in mind that the trade of Green river contributes to swell that of the Ohio and Mississippi, in the commerce of which great rivers not less than twelve or thirteen States and Territories are interested. The trade of Green river connects itself especially with that of Louisiana, in whose commercial metropolis the products exported through its channel annually find a market, though not always a ready or a profitable one. It is intimately connected with all the States whose commerce centers at the same great western market; and it may be said, indeed, that the whole nation has an interest more or less in this trade. The principal product exported from the Green river country is inferior in importance only to the cotton of the South, as an article of foreign commerce. The tobacco of Green river finds its way to the ports of the Atlantic; to Liverpool, to London, and to the ports of the European continent. A public work, therefore, although located on a river not passing out of the limits of a single State, the effect of which is to expedite and render more secure the

transportation of this and other valuable articles of commerce, and consequently to lessen the price to purchasers every where, is of national concern, and not local merely. Its benefits are not confined to the people of one State or of one neighborhood, although I admit they are interested to a greater extent, and more directly, than the rest of the community; but this is equally true of all works of internal improvement, wheresoever situated, whether at Oswego or Buffalo in New York, or at the falls of Vienna on Green river.

Mr. MERCER regretted that he could not support the amendment, but went at length into a series of explanations of the views which governed his course in relation to proposed objects of improvement.

The question was then put, and the amendment rejected.

[It was now late in the evening; lights had for some time been in the hall, and much impatience and great confusion prevailed. The Chair exerted itself to restore and to preserve order, frequently interposing and stopping all business, until something like quietness was obtained. To add to the uproar, a very heavy storm of wind, thunder, and lightning, broke over the Capitol; and, as the upper windows were all open on account of the heat, the wind threw the large curtains of the gallery about with great violence, while the rain, beating on the range of large southern windows, occasioned such a noise as to drown effectually every other sound. During this time several motions were attempted, and the movers addressed the Chair, but neither the motion nor speech could be heard.]

Mr. EWING moved an item of 20,000 dollars for the improvement of the Wabash river. Mr. E. supported this motion in a speech of some length.

Mr. KINNARD said he was against all attempts at browbeating. He had waited for other members, of more age and experience, to raise their voices in opposition to it; but, as he heard none, he had broken the silence which he had imposed upon himself since the opening of the session, for the purpose of administering a modest and humble, but merited, rebuke to such conduct on the part of the representatives of a free people toward one who enjoyed the same rights with themselves. He would refer gentlemen to the records of the country to prove that the river Wabash was one of the navigable waters of the United States. He should not reproach them with ignorance of the geography of their own country. Mr. K. here quoted some printed documents, from which he read, interposing occasional comments; he spoke with emphasis and much animation, but, such was the confusion, that we cannot attempt even an outline of what he said. He repelled, with much spirit, the imputation of land-jobbing and begging which had been cast upon the people of the States northwest of the Ohio, and explained at length the claims of the State of Indiana, and the importance of the contemplated improvement. He demanded the yeas and nays, but the House refused to order them; and the amendment was rejected: Ayes 48, noes not counted.

Mr. CARR, of Indiana, renewed the amendment he had offered in Committee of the Whole, for an appropriation for deepening the Indian chute, in the falls of the Ohio. He said that, when he had before submitted this amendment, there were no estimates to support it; since then he had obtained estimates, made by Captain Shreve. He wished they should be read, and he sent them to the Clerk's table for that purpose; but the House refused to hear them, and the amendment was rejected without a count.

Mr. CROCKETT moved again his amendment for improving the navigation of Hatchie river, and some other streams in his district. He observed, however, that, as nobody knew where the money of the country was, he should not ask so much as he had done before; he would now be content with 30,000 dollars instead of 60,000, and glad to get even that.

His amendment was negatived.

Mr. MANN renewed his former motion to amend Mr. MORRIS's amendment by striking out $20,000 and inserting $17,000; but the Chair pronounced it not to be in order, inasmuch as Mr. MERCER's motion was itself an amendment to the amendment reported from the Committee of the Whole.

Mr. GARLAND, of Louisiana, said he had now a letter from the Engineer department, in relation to the appropriation for cutting through the raft in Red river, which he desired to send to the Clerk's table, that it might be read. It would obviate the objection which had been made to the amendment he had offered.

The CHAIR reminded Mr. G. that his motion was out of time at present; the bill must first be gone through with, then would there be an opportunity.

The item for an appropriation for Deep creek, at the mouth of the Dismal Swamp canal, having been read—

Mr. HAWES said he wished to have some further information as to this Deep creek appropriation. When rivers, in which the Western States had an interest, were rejected, and their improvement refused, without a division, he wanted to have the yeas and nays, that he might see who went for creeks and deep creeks when rivers were rejected.

Mr. HUBBARD explained. He stated the ground on which the Committee of Ways and Means had inserted this item. A bill had once passed the House, in which this appropriation was included; but it was vetoed on other grounds. The United States were deeply concerned in having the object effected, inasmuch as it was important to the navigation of the Dismal Swamp canal: a work in which the Government held a large proportion of the stock.

Mr. BEATY observed that an act exactly similar had passed in favor of the improvement of Cumberland river.

If it was a good reason in favor of one object, why was it a bad reason in favor of another? Would the gentleman give to one and withhold from the other, both being situated alike? The appropriation for Deep creek had not been asked for, yet the gentleman had resolutely determined to give these $29,000 to Deep creek, a stream not half the size of Cumberland river. Mr. B. hoped that some gentleman from North Carolina would rise and explain the necessity for such an appropriation, and not let it rest upon a member of the Committee of Ways and Means to take it entirely under his own patronage.

Mr. MERCER asked a division of the question; but, after a brief debate on the question of order, he withdrew his demand. As to this being called a creek, the terms creek, run, brook, and branch, were all applied indiscriminately, almost, to streams of water of very different sizes, and very different degrees of importance in different parts of the Union. Mr. M. knew of one instance where it so happened that a "river" ran into a "creek." The name, therefore, gave no criterion from which to judge of the importance of the stream, nor the necessity or propriety of improving its navigation.

Mr. HUBBARD disclaimed any particular affection for this item in the bill. The committee had agreed to insert it, and it had been in the bill of 1831. It was said that some of the members from Virginia were opposed to it, though it was in part a Virginia improvement. If so, let them reject it: Mr. H. was not streneous, however, on the matter.

Mr. MERCER said he would explain the fact, in relation to this improvement in Deep creek, which would relieve gentlemen from some of the difficulties they seemed to feel in regard to it. Mr. M. then went into a detailed explanation, insisting that the interest of the canal

company was a totally distinct matter: the appropriation rested on no such ground.

Mr. WISE said he was opposed to this amendment, and should vote against it, if it were at his own door. His objection rested on constitutional principles. He protested against its passage. As to the interest of the United States in the Dismal Swamp canal, he was informed that that measure had been stuck down the throat of the Virginia members, against their determined resistance to it; and afterwards, whenever they spoke against internal improvements by the General Government, this matter of the Dismal Swamp canal was constantly thrown in their teeth. He was opposed to the amendment, whether it was a Virginia improvement or not; and should vote to reject it.

Mr. HAWES said it had been objected by the gentleman from Tennessee [Mr. Polk] against a western improvement, that the present bill was intended to comprise only works commenced and actually in progress, and not any new works. Now, he wanted to know whether any appropriation had ever been made for this Deep creek? He understood it was a stream of 40 feet wide. The Virginia members were opposed to it. What authority had the House to interfere and force this improvement upon the State without her consent? This was merely a work yet to be commenced: how could it come into the present bill?

Mr. MERCER denied that this was a new work, unless it could be called a new work to build a porch to a house after the house had been built. There was no getting into the Dismal Swamp canal without passing through Deep creek. The canal was completed, and now it was asked to remove an obstruction at the mouth of it.

The question being put, the amendment was agreed to.

The question was then put on concurring with the amendment proposed by Mr. Mercer, as amended, and decided in the affirmative, by yeas and nays, as follows: Yeas 92, nays 82.

Mr. WISE now moved to lay the bill upon the table; but withdrew his motion at the request of

Mr. SEVIER, who proposed an item of $30,000, to complete the navigation of the Arkansas river. Mr. S. declined accompanying his motion with any remarks, on account of the lateness of the hour.

It was rejected.

Mr. WATMOUGH renewed the amendment he had before offered in Committee of the Whole, appropriating $10,000 for piers in the harbor of Delaware City. This shared the same fate.

Mr. WISE now moved to strike out the enacting clause of the bill.

Mr. SUTHERLAND demanded the previous question; but, on being assured the debate should not be renewed, he consented to withdraw the motion.

Mr. WISE then renewed his motion to lay the bill upon the table; on which motion he demanded the yeas and nays.

They were ordered by the House; and, being taken, stood: Yeas 66, nays 109.

Mr. SUTHERLAND, dreading debate, renewed his demand of the previous question; but, being again quieted, consented again to withdraw it.

The bill was then ordered to its third reading.

The CHAIR inquired "When shall the bill be read a third time?" The House resounded with cries of "Now!" "Now!"

Mr. PARKER moved a call of the House; but it was refused.

Mr. HAWES moved that the House adjourn; but the motion was negatived: Ayes 50.

The bill was thereupon read a third time; and the question being "Shall this bill pass?"

Mr. POLK demanded the yeas and nays. They were ordered and taken accordingly, and resulted as follows: Yeas 107, nays 48.

So the bill was passed and sent to the Senate.

And then the House, at near 9 o'clock, adjourned.

Tuesday, June 24.

Mr. PARKER, of New Jersey, desired to present certain resolutions, entered into by a State convention, held at Trenton on the 21st May, and which he hoped, as the day usually assigned for the presentation of petitions and memorials had been otherwise occupied, the House would permit him to offer.

Objections having been made,

He moved a suspension of the rule.

Mr. DENNY proposed to amend the motion, by suspending the rule for the presentation of memorials generally.

The House having refused to suspend,

Mr. POLK obtained leave to present certain amendments from the Committee of Ways and Means, which he gave notice it was his intention to propose, when the Indian bills should be taken up for consideration.

The amendments were ordered to be printed.

Mr. SUTHERLAND, from the Committee on Commerce, reported a bill transferring the custom-house from Magnolia to St. Marks, Florida, which bill was read twice; and he moved that it be ordered to be engrossed for a third reading.

Mr. WATMOUGH desired to amend that motion, by including therewith "the bill to extend the limits of Philadelphia as a port of entry," action upon which, he said, was highly interesting and important to the inhabitants of that city, and it was a measure due to them on the principles of justice; to which, as he could not see any possible objection ought to be made by his colleague, he hoped he would accept the amendment as a modification of his motion.

Mr. SUTHERLAND explained that it was his intention to report, with amendments, several bills that had been passed in the Senate and referred to the Committee on Commerce; amongst them, one in relation to this subject, and which, he presumed, would be the best means to secure the action of Congress on the subject this session.

Mr. WATMOUGH said he rejoiced to hear that his colleague had pledged himself to bring up the bill in the manner he now stated; he would, therefore, withdraw his motion to amend; after which,

The bill was ordered to be engrossed for a third reading.

Mr. BEARDSLEY moved a suspension of the rule for the purpose of taking up the bill to settle the controversy as to the boundaries between New York and New Jersey, which it was desirable, he said, to have disposed of.

The House refused to suspend: Ayes 77—(not two-thirds.)

PENSIONS TO FRENCH SEAMEN.

On motion of Mr. ARCHER, the House resolved itself into a Committee of the Whole on the state of the Union, Mr. WARD in the chair, for the purpose of considering the bill from the Senate granting pensions to certain French seamen who were wounded, and to the families of those who were killed, in consequence of the accidental firing into the French ship Suffren, by the American frigate United States.

Mr. ARCHER moved an amendment thereto, to strike out all after the enacting clause, and insert, viz:

That the President of the United States be, and he hereby is, authorized and empowered to make suitable provision for the families of the French seamen unhappily

killed in the harbor of Toulon, on occasion of firing athe lute from on board the frigate United States, and for wounded survivors; the same to be paid out of any money in the treasury not otherwise appropriated."

The amendment was considered and agreed to.

After an ineffectual attempt by Mr. SELDEN to induce the committee to consider another bill,

The committee rose and reported the bill, as amended, to the House; which was then concurred in, and the bill ordered to be engrossed for its third reading.

Mr. POLK called for the orders of the day.

FORTIFICATION BILL.

The fortification bill being the unfinished business—

Mr. POLK moved that its consideration should be postponed until five o'clock, with a view to proceed to the immediate consideration of the bill to regulate the deposites.

Mr. MERCER said, if the honorable member was willing to prolong the session, he would be willing to go on with the bill he proposed, that it might be debated, as its importance made it necessary it should be, fully.

Mr. POLK said that he would modify his motion by proposing that the fortification bill should be postponed until to-morrow.

Mr. MERCER said he would object to any postponement.

After a struggle to settle the order in which the business should be taken up—

The SPEAKER stated that the bill making appropriations for the several fortifications was the special order.

The question pending thereon being a motion to strike out the enacting clause,

Mr. E. EVERETT said he presumed that it would be in order to assign his reasons why he could not vote for the motion to postpone the bill that was first in order to be taken up, and which he deemed of importance to proceed with; he would therefore state that he had conversed with various members of the House on the subject, and there was not one of them who expressed an opinion that, by any possibility, this deposite bill could become a law this session. Every one knew and acknowledged its importance, and that it was one the details of which must necessarily occupy much time.

Why, then, he asked, should they postpone all other business for that which, it was so generally admitted, the lateness of the session would prevent from being acted upon? If it was now taken up, he believed that the only result of doing so would be to the prejudice of other bills. This he did not mean in reference to the fortification bill solely, but to others of vast importance to the country. His opposition to the motion to postpone that bill was not, he desired to say, to restrain discussion on the great question, but it was because he believed that it was altogether too late in the session to hope that any good could result from taking it up, whilst it would be a great injustice, under such circumstances, to do so, instead of proceeding with the other numerous bills, public and private, which yet remained to be acted upon.

Mr. POLK said he had no desire to postpone, to any unreasonable time, the fortification bill, the importance of which he was ready to concede; but he had no idea that, as the principles of the deposite bill had been in part settled on the great questions so recently and fully discussed by the House, and as the bill had been partly gone through, there would be much time necessary now in discussing its details. He was in hopes that a very few hours would enable the House to complete it; and thus it might be sent to the other branch of the Legislature for their early action upon it. For these reasons, he considered it highly important now to be acted upon by the House, and must persist in his motion to postpone the bill which was the special order, with a view to take it up; stating, at the same time, in order to show that he did not desire the fortification bill should lose its precedence in the order of business, that if no other member should, he would himself move to reconsider the vote by which it should be postponed.

Mr. J. Q. ADAMS said, if the honorable member from Tennessee was sincere, which it was not his intention to question, when he called on all parties to give their aid to him in maturing the bill to perfection, he must say the conclusion to which he had come was irresistible, that there was not, at this late period of the session, time to act upon the bill. So far from its being possible, as that honorable member had intimated, to complete the bill in four or five hours, the discussion, the necessary discussion upon it, would not terminate in so many days.

If, however, it shall be deemed advisable, by the honorable member, to prevent discussion, and that, to effect this, the screws, the previous question, is intended to be applied, why, then, less than four or five hours will undoubtedly suffice; half an hour, and at the close of the session, will be sufficient. He hoped, however, that the honorable member would evince his sincerity in calling for aid from all parts of the House, and postpone it until the bills which it was indispensable to pass should be acted upon. Situated as the House was with regard to other business, and the time they had fixed upon to adjourn, it was hardly possible to suppose that the bill could be disposed of in the limited period now allotted for business. Were there not, he asked, various amendments, and of various descriptions, necessary to be discussed and passed upon by the House? Amongst others, was there not the very important one which the honorable member from Rhode Island had proposed? one to provide that, as the State banks were to have the custody of the public money, for the use and keeping of which the Bank of the United States had paid a large bonus, these banks, to whom it had been transferred, and those to whom it might be hereafter committed from that institution, should pay the same or some other fair remuneration for the use of this money, as should be deemed a fair equivalent on their part for it. This was, in his view, so important a proposition, that it alone would consume one day at least; for, he could not suppose there was one member in the House prepared to give up to these State banks the benefit accruing from the use of the public funds, without providing that they should make some remuneration therefor to the Government.

Mr. CLAY rose to a point of order. He must object to the honorable member from Massachusetts discussing the merits of the bank question on a motion to postpone.

Mr. J. Q. ADAMS would remind the member from Alabama that he was not discussing the merits of that question; he was simply stating circumstances, which would convince the House, as he was convinced himself, that, if the deposite bill was entered into, as proposed by the honorable chairman of the Committee of Ways and Means, the discussion upon it must necessarily occupy the remaining time of the session, to the prejudice of other business that it was indispensable for the House to act upon. The consequence, therefore, of taking it up must be, either that these important subjects should be postponed, or the House should come to a determination, which he did not desire them to do, if it could be avoided, viz: to rescind their vote to adjourn on the 30th, and to which he should, under no circumstances, give his assent, and prolong the session. He considered the fortification bill as one of those upon which it was important, indispensable, to act, and he hoped its consideration would not be postponed.

Mr. ELLSWORTH said that, as he understood the honorable member on a former occasion, his argument then was, that the President had ample power already over the deposites. This bill, now proposed, to regulate

them, &c., was therefore only a matter of discretion for the House to take up. But, according to the member's own views, where, he inquired, was the importance, or what necessity could there be, for taking it up; and particularly, when, by doing so, the certain effect to be apprehended must be the loss of the bill making appropriations for fortifications? To that it would come. He might, however, be permitted to state that, although this deposite bill should be taken up, even if it went through the House, most certainly it would be lost elsewhere. He would ask the honorable member, himself, to state whether he really expected, if it was taken up in the House, that it could become a law this session. That honorable member would not say that he believed it would; and had distinctly intimated that it was unnecessary to legislate on the subject at all, when he said that the President had full power to place the public moneys where he pleased, and to regulate the terms with those in whose custody he would place them; he brought forward the bill now, he acknowledged, only in deference to the wishes and feelings of the House, he himself having argued that there was no actual necessity for it. Was it sincerely desired to have the bill taken up at all for that purpose? If such was the sincere design of the honorable member, why had he not presented it before this late period of the session? Why was it, that up to the very last week he had abstained from introducing a measure, the necessity of which, however, was doubted by that honorable member? No one else, he believed, would be found to do so, or to deny that it was of paramount importance, going at it did to settle by law principles for the regulation and custody of the public treasure, which was not the question of a day, but was one for all time to come.

Mr. CAMBRELENG here interposed for the purpose, he said, of reminding the honorable member from Connecticut that if so much time was taken to decide upon the order of business, there was little likely to be accomplished.

Mr. ELLSWORTH remarked that his apology for combating the propositions as he had done would be found in the mere fact that it was contemplated to postpone one bill, which was of admitted importance, for the sake of taking up another which, it was equally admitted, would be a nullity, inasmuch as there was no one who believed that it could be brought to a successful termination this session. The attempt to bring up the subject now was, therefore, vain and nugatory, and if seriously desired by the honorable member, ought, as the subject was in his charge, to have been made at an earlier period.

Mr. PATTON rose and said he could not refrain from expressing his surprise at the movements made for the purpose of preventing action on the bill for regulating the deposite of public money, and especially at the quarter from which these movements proceeded.

For the last two or three months, daily, the House of Representatives have been taunted, here in the Capitol, and elsewhere, from one end of the country to the other, with a want of sincerity in the efforts they proposed to make, for providing more definite and satisfactory regulations concerning the custody and safe keeping of the public money, than the existing laws furnish. This body has been charged with standing here, and giving their sanction to a wanton seizure and unlawful custody of the public money by the Executive, and that they intended to leave the public money in this unlawful and unconstitutional condition, without any serious effort to place it under the regulation of law. We have been perpetually asked, Why do you not act on your bill? Why not do something to divest the Executive of his uncontrolled possession of the public money, &c. &c. And now, at the first moment at which, as is perfectly known, that the bill could come up by the rules of the House, and without passing by the indispensable appropriation bills, now, when an effort is made by the chairman of the Committee of Ways and Means to press the bill to a decision, we are told it is perfectly idle to make any effort to pass the bill; that it is vain to expect that it can pass; and therefore we are urged to lay it by, and take up the fortification bill, which is said to be indispensable. Why, sir, have we a large maritime and hostile force on our borders? Are we in danger of immediate invasion from a foreign foe? Is the emergency so imminent that we must take up this fortification bill without a moment's delay, at the hazard of leaving the public money in a condition where it is alleged, by those who urge us to this course, to be uncontrolled, in the unregulated discretion of the President, who is charged with using it, and claiming the right to use it, for his own purposes? If gentlemen be serious in these opinions, I should have thought they would have seized the opportunity gladly of devising some practical and practicable scheme for the purpose of placing the public money in some safe and careful custodium, to do something for the purpose of resuming and manifesting the legislative authority over the public revenues. But, no; we are told it is a vain effort; that every man knows that no law for the purpose can pass.

How do we know this? I suppose there is not a man here who does not believe that some law, for defining more precisely the extent of the executive control over the place of keeping the public money, and for limiting the discretion which is now supposed to belong to that department on that subject, will pass this body. A majority here, is, I presume, unquestionably favorable to some such action. Those who do not believe that the action of the Executive in relation to the deposites was unlawful; who do not believe that the public money has been seized and is held against the law, or without law; who are charged with being disposed to sustain the Executive in an unlawful and unconstitutional possession and use of the public money, are those who are anxious to place the public money under the dominion of more precise and indisputable legal control, and to satisfy every body, even the most jealous, that the public money is not left subject to executive discretion.

But we are told no such bill can pass the Senate. Who is authorized to say so? And if one was so authorized, are we to be restrained from doing what is right, in our opinion, by being told that that the Senate will not concur with us? Certainly not.

I should hope that the Senate will not hesitate to act on the bill, if it should pass here. I do not see well how that body can fail to make some provision on the subject, consistently with the opinion entertained by a majority of that body—that the public money is now held by the President, without the dominion and against the authority of law. They think the best course is to restore the deposites to the Bank of the United States. But it is now certainly and definitely determined that cannot and will not be done. This House has, on two occasions, and on the last occasion by an increased majority, decided against this. How, then, can the Senate hesitate to put the public money under the express regulation of law, instead of leaving it, as they now allege it to be held, without the authority of law? I do not entertain that opinion, but still I am willing and anxious to amend the existing law; to limit the executive discretion, and to define his authority with more precision; and I should suppose those who entertained a different opinion would have been still more anxious to pass some law on the subject.

Why, then, shall we longer postpone this matter? Let us take up the bill, and, if we can agree upon the details, pass the bill. Let us at least show that we have no disposition to leave the executive discretion unshackled, and his will unrestrained. Let us do our duty; let us endeavor to comply with the behests of public opinion;

and if the concurrence of any department of the Government, or that of the other branch of the Legislature, be withheld, let the responsibility rest on those who interpose the obstacles. For the last six months it has been iterated and reiterated, until we have been almost stunned and deafened with the clamor, that the public money was unsafe; that it was in the unlawful possession and control of the Executive. Let those who have agitated the public mind by these declarations, if they choose so to do, leave things as they are. I trust that here the effort to give this matter the go-by, will not be successful. I am not particularly attached to the particular provisions of the bill reported by the committee. But let us take it up, amend it, if necessary; make it as perfect as possible, and decide directly upon it.

The difficulty suggested by the honorable gentleman from Massachusetts, that there is not time to give the subject due consideration, need not alarm us. And I should have supposed he would have no apprehension on the subject, if he would only recall to mind the scenes which took place here about this time two years ago, when the bill for the recharter of the Bank of the United States was forced through the House by him and his friends, in the course of one day, I think, by the aid of the parliamentary instrument now so odious to him, and which he denominates the "screws." All the important questions then proposed—the amount of bonus to be paid; the obligation to pay interest on the deposites; the right of the States to tax the branches; the time of the charter; and perhaps other questions, were discussed as long as the majority, in its discretion, thought to be judicious and proper; and then the disposition to prolong debate unnecessarily was corrected by the exercise of that parliamentary privilege which majorities always exercise, and minorities always endeavor to render odious.

[Mr. REED, of Massachusetts, called Mr. P. to order, and said it was not in order to discuss the bank bill.

The SPEAKER said the gentleman from Virginia was not out of order: he was replying to arguments made by others.]

Mr. PATTON said he was under obligation to the gentleman from Massachusetts for his admonition, as he was very unwilling at any time to transgress the bounds of order. He was pleased, however, to find that the gentleman's admonition was uncalled for. There need be no apprehension that the bill will not be sufficiently considered. All its provisions may be fully examined, and dispassionately and deliberately decided. The example I have referred to, in relation to the bank charter, ought to satisfy those gentlemen at least who have expressed the apprehensions alluded to.

Mr. POLK said that, to prevent the whole day being taken up in discussing the order of the business, and, at the same time, to test the sense of the House whether they were disposed to entertain the deposite bill, he would withdraw his motion to postpone the fortification bill, and simply move to lay it on the table; pledging himself, the moment the deposite bill (if taken up) should be gone through, that he would himself call it up.

Mr. REED called for the yeas and nays on the motion to lay on the table; which were ordered.

Mr. DICKSON wished to know, if the motion to lay the other on the table prevailed, how the deposite bill came next in order?

Mr. POLK explained; after which,

Mr. PATTON rose to state that he wished to prevent any misapprehension as to his vote on this motion, for he was not opposed to the fortification bill, although he desired the deposite bill to be taken up immediately.

Mr. E. EVERETT also desired to state that he was not against the deposite bill, although he was against its being taken up at a period of the session when there was no likelihood that it could be passed into a law.

Mr. J. Q. ADAMS would inquire from the honorable member from Tennessee, [Mr. POLK,] who made the motion to lay the bill on the table, if he did not know that its effect was to deprive him of the possibility of replying, as he was desirous of, to the observations of the member from Virginia, [Mr. PATTON,] who had just sat down? He would ask him to withdraw his motion, to give him that opportunity.

Mr. POLK having declined to withdraw—

The motion to lay the fortification bill on the table prevailed: Yeas 119, nays 68.

Mr. LANE moved to reconsider the vote laying the bill on the table; and, on his motion, the motion to reconsider was postponed till to-morrow.

THE DEPOSITE BILL.

The House resumed the consideration of the "bill regulating the deposites in the local banks," when

Mr. COULTER obtained the floor, but yielded it to

Mr. DUNCAN, who offered an amendment, to come in after the enacting clause of the bill, by way of substitute for its provisions. [The amendment of Mr. DUNCAN proposed to continue the act incorporating the present Bank of the United States for twenty years, with certain limitations and regulations.]

Mr. COULTER then took the floor and addressed the House as follows:

Mr. Speaker: The object which every member of this House pursues is the public good, and the guide which he adopts to conduct his steps, is the constitution of the country. But, unfortunately, the imperfection of the understanding is so great, and the influence of passion and prejudice so prevailing, that, like the pursuit for the prize of a higher and more glorious calling, we are found in different paths. It is admitted on all hands that there has fallen upon the country a disturbed state of public opinion, and that the late measures of the Executive have put the revenues and the currency of the country to a new and hazardous experiment. Something like consternation and dismay is manifested on one side at the progress and probable result of this experiment, whilst on the other there is nothing but hope and exultation. I have always believed that the dangers supposed to lurk in what is called the marble palace of the bank were greately magnified by the somewhat hysterical apprehensions, real or affected, of the anti-bank politicians, and I have not doubted but the fears of the zealous friends of the institution were much exaggerated in their calculations about the ruin of the country from its sudden and unwise destruction. The exacerbation of the fever is, I hope, passed, and the country will soon look with calmness at its own condition, and adopt the suitable remedy. The various propositions which the crisis has introduced, and which are now on the Clerk's table, show that all sides of this House think some legislation necessary in the present attitude of public affairs. Although they are all fairly opened to discussion by the present motion, I shall remark upon two of them only. For no one here is more sensible than I am of the value of time at present; and as my sole object is to throw out some considerations explanatory of my votes on these two propositions. I voted, some days since, to lay one of these propositions on the table. The rule of proceedings did not then allow me to state my reasons, which I will do now. You understand, of course, that I allude to the second resolution of the Senate, which proposed to restore the deposites to the Bank of the United States after the first of July, 1834, according to the terms of the charter. Although I was in favor of continuing the United States Bank as the depository of the public treasure, until by its recent course it placed itself in an attitude of direct hostility to the legislative authority of the country in relation to that treasure, I never would have adopted this

mode of effecting that object, as either adequate to remedy the evils complained of, or calculated to allay the apprehensions of the country. By the sixteenth section of the charter, it is enacted that the moneys of the United States shall be deposited in the bank, unless the Secretary shall otherwise direct. The great evil complained of, was that this discretion of the Secretary had been abused—that he had removed the deposites unwisely, and without sufficient reasons; which impaired the confidence of the country in the stability of the paper currency.

This opinion was in my judgment correct, and a discretion, liable to be controlled by a power superior to the Secretary, in a mode not amenable to the law, and capable of effecting the commercial interest, and deranging the currency of the country, ought not, in my opinion, to have been restored. The manner in which the 16th section of the bank charter was constructed introduced all the existing evils. It was the original sin from which proceeded all our present wo. The forbidden fruit having been once plucked, should never have been placed by me in the same situation to tempt again human ambition and human love of power. The resolution to which I allude, when put into plain English, is this, and no more: that the deposites shall be made in the United States Bank after the first of July, unless the Secretary of the Treasury shall otherwise direct, which, if not a mere nullity, would only invite a repetition of occurrences which have disturbed the country. I would have sought a remedy, and found it, on the statute book, among the last acts of a class of men, whose enlarged political sagacity, and whose patriotism, have been too much forgotten, whilst their faults have been too grievously remembered. I allude to the act of 10th May, 1800, which operated upon the collectors of public moneys, and makes it their duty to pay them into the Bank of the United States, where they were to remain, subject to the control of Congress alone, until they were appropriated by law. Every one here knows that Mr. Jefferson was more thoroughly opposed to the old Bank of the United States than the present Executive is to the existing one. Yet this law, simple in its enactments, and stable in its operations, carried the financial operations and fiscal concerns of the country tranquilly through his administration, and until the expiration of its charter. With whatever intent this fatal 16th section of the present charter was framed, its effects may teach even great men how much safer it is to rely upon experience, than trust to new experiments, however seducing.

But candor requires me to say that I have stronger objections to the resolution. They are found in the fact of the refusal of the bank to submit itself to legislative scrutiny. The constitution vests in Congress the power of imposing taxes, the highest function of sovereignty. The custody and care of the amount, when levied, is part of the same power. Indeed, the power to create public treasure would be useless, and only oppressive, without the power to preserve it. It is not only the business but the absolute duty of Congress to look after its safety. It was for this reason that so great an outcry was raised against the President for taking it into his keeping. Every form of denunciation, and every mode of imprecation, has been used, which might designate him as a tyrant, because he directed the public money to be placed where Congress cannot inspect it. Now, without adopting all the extravagancies on this subject, I agree that the President acted unwisely and improperly. But can the bank lawfully, and wisely, and meritoriously, take from Congress this highest of all its rights, when it amounted almost to treason in the President of the United States to do it? It need not be alleged that the bank will squander the public money. All may be right, and I hope is. But it has refused the evidence of it; and while it continues in this state of contumacy, it much more effectually, and more dishonorably to this body, withholds the public treasure from the custody and dominion of the legislative power, than the President has attempted to do. It is a matter of no import with me, that specious pretences have been set forth to justify this line of conduct. The argument of the President to justify his interference with the treasury, is more imposing than the excuses and evasions of the bank. The transcendental and absolute control which Congress has, by the constitution, must not be permitted to be frittered away by any process of reasoning, however subtle. Let us examine briefly the positions taken by the bank. It alleges that its charter is a contract with the Government, and that, as one of the parties, it has a right to put its own construction on its provisions, and, in such case, that the judicial tribunals are the only power which can rightfully determine between it and the Government. It is certainly true that acts of the legislative power, creating private or eleemosynary corporations, have been regarded, both in England and in this country, in the light of contracts between the Government and those to whom the private franchise was granted. But not so in relation to public corporations, in which the whole community is concerned, and especially corporations for the purpose of executing the powers of Government. That the interests, finances, and prosperity of a great people could be converted into a private franchise, and subject to judicial control, is a proposition sufficiently absurd on its face. The law never was so in England, and never will be so here. The language of Chief Justice Marshall, in the case of Dartmouth college, is sufficiently distinct. "If the act of incorporation be a grant of political power, if it creates a civil institution to be employed in the administration of the Government," it does not partake of the nature of a contract. In the case of McCullough and the State of Maryland, it was determined that the State could not tax the bank, because it was an instrument of the federal Government to carry on its fiscal operations.

It is not contended by any class of politicians that the Government of the United States have power to create private franchises for any purpose. The bank can exist only by the constitution, because it is a public fiscal agent of the Government for the purpose of collecting and disbursing the public revenue. And is it to be allowed that an institution, so created and existing, can set up its charter as a contract, and say to the legislative authority of the country, thus far shalt though go and no further? Congress cannot contract away its power over the public treasure. If it ever had done so, the act would be utterly void. By the charter of the bank, its notes are made a legal tender to the Government for all taxes and debts. It is not, therefore, the safety of the funds of the Government in its vaults, but the entire revenue of the country, which depends upon this institution. And yet the legislative authority of the country shall not be allowed to overlook its proceedings and its books, except in the mode and for the purpose determined upon by the bank itself. Sir, the position is monstrous, and could never be tolerated except in a moment of excited political feeling. But it is said that private interests are mingled with those of the Government. Such is the condition of our nature that it can never be otherwise. The public officer cannot be separated from the individual man. His feelings, his fame, his character, and reputation, are blended with his official functions, and although they may all be wounded by a legislative scrutiny, the imperious interest of the public demands that they must be subjected to the ordeal. No individual, I presume, ever supposed that the Legislature was about to purloin the books or private treasure of the corporation or of its directors, or subject them to a forcible search or seizure, as the directors seemed to apprehend. It was civil inquiry merely, without the array or power of criminal

prosecution. The pure in heart and conduct would have done well to answer to such inquiry. Investigation always honors the guiltless. I know not, and I care not, what the views of others were in voting for the inquiry. Mine were that those in whose integrity and usefulness I had full confidence should have an opportunity of wiping all dishonorable imputations from their proceedings and their characters. The directors have chosen differently —perhaps chosen well, but they must abide the result before that public tribunal which will be too apt to say "they chose darkness rather than light, because their deeds are evil."

Mr. Speaker, I derive strong confirmation in these views from the proceedings of the British Parliament in relation to the Bank of England. In the charter of that bank there is, or rather there was, (for I have not been able to get the renewed charter of last year,) no reservation of the right of parliamentary investigation, and the institution has no material connexion with the Government, except in the loans it makes. But it exercises an important influence on the currency, and both Houses of Parliament institute the most rigid inquiry into its proceedings and affairs. In 1797 an order of council was issued by the ministry, authorizing the bank to suspend specie payments. The matter was immediately taken up in both Houses, and committees of inquiry appointed. In the House of Lords the inquiry was resisted, by one individual alone, on the ground that Parliament "had no right to *pry* into the affairs of the bank," but he received no countenance whatever. The inquiry was voted in both Houses by overwhelming majorities. The great statesmen of the time—Mr. Fox, Mr. Pitt, Mr. Windham, and Mr. Wilberforce—all concurring. The resolutions of inquiry were all without stint or limit; and in the progress of it, the governor, deputy governor, and directors, were examined separately upon oath; they were ordered to produce such books and papers as the committees thought proper, and they were ordered to produce, and did produce, the letters to and from the chancellor of the exchequer. This inquiry was instituted and prosecuted with rigor, although it might have resulted much to the injury of the directors, because, by the statute of William III., a heavy penalty is imposed upon lending money to the Government without parliamentary security and authority. Now it does not appear where the committees sat, whether at the Crown and Anchor, or at the bank; but, I presume, in the committee rooms of St. Stephen's. It is not my purpose to examine the contested ground between the majority and the minority of the committee of inquiry. It is not necessary for my purpose. It is sufficient for me that the bank resisted the inquiry, unless it was conducted according to the terms of the charter, as construed by the directors. I will not examine whether their interpretation of that instrument is plausible or not. In voting for the inquiry, I looked to the constitution alone, and to the right and duty of Congress to look after the security of the public revenue. The authority of Congress, within the scope of its delegated powers, is as transcendental as that of the British Parliament. All public agents, whether corporations or individuals, must be subject to its plenary and full power of examination. Whenever it shall cease to be so, not only the finances, but every branch of the public service, will become the refuge of peculators, blood-suckers, and oppressors.

The charter granted to the bank cannot control, or limit, or qualify, the right of legislative inquiry. It might as well be said that the courts could not compel the production of the books of the bank where they would be competent evidence, except in the single case specified in the charter. But no lawyer, I apprehend, would risk his reputation upon such an assertion. If Congress could contract away one essential right under the constitution, they might contract away the whole. The regulations of the charter are directorial and obligatory upon the officers of Government; but, as a contract, are utterly incompetent to bind the legislative power, and control the prosperity of the country. The issuing of the *scire facias*, spoken of in the charter, was never designed, certainly, for the protection of the Government; for no one will pretend that, if the bank had suspended specic payments, or been guilty of any act tending to show insolvency, still it must remain the custodian of the public treasure, until the charter was forfeited, on a trial at law. The clear intention of that provision was, that, whenever a committee of Congress was of opinion, from an examination of its proceedings, that the bank had violated its charter, the *scire facias* should issue, for the protection of the citizens—of the community. These views are not of recent origin in my mind. I voted for the inquiry, in pursuance of long-settled principles. Two years ago, when the renewal of the charter was before Congress, I offered an amendment, providing for the appointment of a joint committee of both Houses annually, to make the most thorough examination of the bank and its proceedings, upon whose report Congress might alter, modify, or annul the charter. This amendment, like all others offered in this House, was rejected; but that did not alter my opinion of the necessity or usefulness of the measure.

The power of control, examination, and correction of abuses, must abide in every well-regulated Government somewhere. By our constitution, it undoubtedly belongs to Congress. How or where does the other branch of the Legislature derive its authority for making the close and searching inquiry into the Post Office establishment, and the proceedings of contractors, that is now going on? Not in any reservations in the law creating that establishment; and yet the whole fortunes of contractors are embarked in their contracts with the Government, and their private interest and dealings connected with them: not in the power of that branch of Congress to institute any criminal proceeding against peculators and offenders, for it has no such power: but it is found in the high transcendental legislative power to examine into abuses in the concerns of Government, in order that it may be enabled to correct them. Let me ask what the opinion and feelings of the country would have been, if the officers of the Department had refused an inspection of their books to the committee of the Senate, on the ground that the Senate had no right to institute an impeachment against them? And if contractors had refused to answer, upon the ground that their private interest and affairs were concerned, and that they were not bound to answer, as they might perhaps criminate themselves, and jeopard their own private rights, the whole country would have cried shame upon them. And if it had happened, as it might have happened in the course of human affairs, that too close an intimacy existed between the bank and some of the executive officers of the Government, the Secretary of the Treasury, for instance, and that it was rumored and suspected that the money of the bank was used to obtain improper advantages for this functionary or from the Treasurer, and an inquiry had been instituted by this House to examine whether any such corruption existed, sir, I will not offend this House by asking what would be its feelings and that of the country, if the bank had, in such case, set up its corporate privileges, as interpreted by itself, to prevent disclosures, and its president and directors had refused to answer on oath.

The bank, then, in my judgment, having declined legislative scrutiny, and withdrawn the finances from the inspection of Congress, first, by the refusal of the president and cashier, in whose legal custody the books were of right, to produce these books to the committee for examination, when demanded in the business-room of the bank: secondly, in the president and directors re-

fusing, in a body, to produce certain books, because they were not in their custody, individually and severally refusing to be sworn: thirdly, in demanding specifications from the committee, when the only specification necessary, or which they could give, was the resolution of the House—I cannot, consistently with my judgment, make it the custodian of the public treasure. No man regretted its course more than I did, because I considered it a valuable public institution. But it has no dominion over me, politically or otherwise; and whilst I oppose, on the one hand, what I believe to be executive invasions of legislative rights, I will not, on the other, surrender them to a moneyed corporation.

Having now, Mr. Speaker, stated why I did not vote for the resolution of the Senate, I shall proceed to state the reasons of my opposition to the bill making the State banks the depositories of the public money. The 16th section of the United States Bank charter, so fatally vague in its provisions, did not give to the Secretary of the Treasury absolute dominion over the public money. He might direct that it should not be put in the bank; this was the extent of his power. The moment he did so, the law of '89, still in full force, attached to it. The whole Treasury establishment is the creation of that law, and by its provisions the Treasurer is the keeper of the public moneys. He gives bond, with sureties, for their safe-keeping. The collectors of the customs and the receivers of money for the public lands, are directed to pay him, and to receive their acquittances from him. The money is directed to be paid out by him on warrants drawn upon him, as provided by law, and he is bound "at all times to submit to the Secretary of the Treasury, and the Comptroller, or either of them, the inspection of the money in his hands." This law, in all its parts, has been continuing and unrepealed; and when the Secretary, under the 16th section of the charter, directed otherwise, that is, that the money should not be put into the bank, it of necessity went into the hands of the Treasurer, he being the only other custodian appointed by law. It is true that he might deposite it in any place for safety; but still he is responsible, for one of the conditions of his bond is "for the fidelity of the persons to be by him employed." Gen. Hamilton, I admit, upon a question put to him by a committee of Congress, gave it as his opinion that, when the Treasurer deposited money in the State banks, they were first accountable to the Treasurer, and ultimately accountable to the United States. But highly as I respect his authority, I doubt whether the United States could maintain any suit upon a contract by its agent or officer, which was not authorized by law. The State banks, under such circumstances, are, in my opinion, the depositories of the Treasurer, accountable to him, and he and his sureties accountable to the United States. This gives the Government not only the security of the banks, but the assurrance of the increased diligence and watchfulness of the officers of the Government, arising from their ultimate accountability. I prefer this state of things to the provision of the bill reported by the Committee of Ways and Means. The executive authority voluntarily assumed this responsibility. I prefer holding them to it, until the great question between a fiscal agent of this Government, and the employment of State banks, shall be decided by the people, who must at last decide all such questions.

There are other reasons why I cannot vote for the bill. A citizen of each State is also a citizen of the United States; and the laws of the Union, operating upon him in that character, are obligatory. When he is an officer of the Government, or its agent, you can punish him for official negligence or default. And as it respects the Bank of the United States, you can terminate its existence and control its action, when the public good requires it. But what are these State incorporations? The creatures of State law alone. They owe and they bear you no allegiance. Pass statute upon statute, and you cannot bind them. Artificial beings, without bodies and without souls, and not of your creation, you cannot command them. Like the viewless spirits of the air in the olden time, they obey only the wand of their own master. Deriving their organic existence from the State law, they obey its dictates; and if any of you have examined the charters of the five hundred State banks, any of which your officer may contract with under this law, you have been more diligent than I. You can do nothing by a law of this kind, but remove a just responsibility from your officers, and take it, hoodwinked, upon yourselves. One salutary provision which runs through the provisions of the Treasury law of '89, is, that persons employed in the custody of the public money shall not, under the most severe penalties, deal in stock of the United States, or of the several States. The same prohibition exists in the charter of the United States Bank. The policy of this provision is obvious. It was to prevent the money of the Government from being employed in speculation upon public stocks. The persons having the control of the public purse might effectually, by various ways, depress those stocks, and then buy them up. One evil of this bill is, that this salutary principle in our policy will be entirely lost or obliterated; for you cannot prevent the State banks from doing any thing they are authorized to do by their charters. Many of them, I know from examination, are not prohibited from dealing in Government stocks. By enacting this bill into a law, you will establish an anomaly in the history of financial legislation. A Government, with an annual revenue of more than twenty millions, incapable of employing or using agents or officers of its own as the keepers and disbursers of it; resorting to creatures of other sovereignties by contract; for all that you can do is to authorize your officers to farm out your revenue by contract to the State banks. You might as well farm it to the Rothschilds; they are not more alien to your Government than State banks are. I would prefer the amendment proposed by the gentleman from Virginia, [Mr. Gordon,] with all its practical inconvenience, in the present state of the currency, to this bill. But I prefer leaving things as they are for the present. Our time is now too short and hurried to do any thing of this magnitude wisely. The tone of excitement in these halls is unpropitious. I wait for calmer times and graver deliberation, when I hope the wisdom of Congress will devise a financial agent for the custody and disbursement of the public money, of its own creation, subject to its inspection and control. Before settling this great matter permanently, I hope there will be brought to its consideration less anxiety about who shall be President, and more concern for what is wise and just; and for the good of the republic—when our legislation shall have impressed upon its liberal and beneficent front, in characters shining like sapphire and gold, for our country, instead of for our party and our man.

When Mr. Coulter had concluded,

Mr. LANE obtained the floor, and said,

Mr. Speaker: The few remaining days for the action of the House upon the numerous bills yet upon your table, admonishes me that no portion of that time should be devoted to preliminary observations. I shall, therefore, without preface or apology, submit to the House some of the reasons which induce me to support the bill under consideration. My opinions upon the general question, as expressed repeatedly to my constituents during the last canvass, remain unaltered. I thought then, and still think, that a United States Bank furnishes the readiest means for the collection, safe-keeping, and distribution of the revenue, and that its notes, discounts, and exchange agency, are important conveniences to the community. I believe, also, that its influence in checking excessive is-

sues by other banks, though sometimes arbitrarily and unequally exercised, had a happy effect upon our currency. In as far at it is beneficial, it is of course desirable; but under the present organization these benefits are coupled with evils, enough of which are already known to condemn—utterly condemn, the existing bank. As its agency was deemed essential in conducting the operations of the Government, I felt, in common with many others, a strong desire to reorganize it in such manner as, whilst it preserved its usefulness, would lop off the evils which experience had made manifest. The standard by which I measured the institution remains unchanged, and subsequent occurrences have only shown that the evils were more numerous than I supposed. Recent events have annihilated the hope that the bank, or any of its ultra supporters, will assent to any arrangement which will quiet the public mind and restore public confidence. Whatever may be their professions, their acts demonstrate that relief must come, not from them, but in spite of them. The last few months furnish an instructive and remarkable history. We have seen the bank, on the eve of its charter's expiration, building up a vast system of credits, on which were founded commercial transactions involving the trading interest of the whole country. We have seen a party rush to its standard, composed of individuals of every variety of political complexion. We may well suppose that a witching charm was needed to unite in harmonious co-operation such opposing elements.

"Black spirits and white,
Blue spirits and gray,
Mingle, mingle, mingle,
Ye that mingle may."

Casting their political creeds into the cauldron, and lashing themselves into excitement, we have seen them turn from the business of legislation, and convert the halls of Congress into rostrums for the delivery of inflammatory harangues against that credit system whose excessive growth was the creation of their own artful management. They knew that the giddy superstructure was supported by public confidence alone; their cries were long and loud that public confidence was destroyed; and the groundless assertion was the father of the unhappy truth. The vehement clamors here acted on public opinion elsewhere, and public confidence and mutual credit were instantly shaken, and for a time even destroyed. With what purpose was this destruction attempted and consummated? The answer is inevitable. The excess of credits was created, to be destroyed. The people would suffer; but that very suffering was calculated upon as the means of forcing the people to support the bank. The same art that governed the preparations, directed the execution. A pretext was wanting for this ruinous attack upon the people. The removal of the deposites was seized upon; and the panic-makers exerted themselves to the utmost to cast upon the President the blame of that suffering which it had been their sole object to create and continue. Neither principal nor ally has flinched or faultered. The approaching distress was announced in this Capitol with vehement exaggerations. The bank strained every nerve, by breaking up the entire system of domestic exchanges, and by skilfully withdrawing its discount accommodations, to keep pace with the prophecy. Soon a faint echo arose to the cry of distress that had gone forth. Redoubled clamors, artfully supported by bank intrigues, shook public confidence, and distress spread like wildfire over the whole country. The vast fabric of credits, which the bank had built, was, by the bank and its political allies, pulled down upon the heads of the people. To this moment of confusion and suffering they had eagerly looked forward as the harvest of all their exertions. They fondly hoped to break up the great constitutional party, and to lure from its ranks every individual whose signature could be obtained to a memorial. Hence the countless devices to swell the list, and enrol on it all who could be prevailed upon to enlist in the new party. But the grand experiment of recruiting has failed. With a new name and new associates, they hoped to drown all memory of their former condition. But it will not do. The play has been played out, most injuriously to the people, and has failed of its effect. Enough has been done to please them with the delusion of hope. The penance is to follow. The masks are even now being torn off. And, however late the decision may come, it will rest heavily and darkly upon the memories of those who have dared to use the influence of elevated station and acknowledged abilities to create suffering among the people, as the means of perpetuating an institution, for political and selfish purposes. Even now, if I mistake not, there are some of the supporters of the bank who recoil from the course they have pursued, as its consequences unveil themselves. They were urged on in this crusade against the public interest, rather by their habitual party sympathies than by any preconceived interest to inflict suffering upon the country. They cannot fail to regard the arguments of their excited leaders, which impute this suffering to the removal of the deposites, as flimsy and almost wicked sophisms.

For one, Mr. Speaker, my opinion as to the removal of the deposites has been formed since I entered this House. I did not express my opinions when it was before us for discussion, because I then thought it our duty to allay the public excitement by legislative action, rather than to irritate it by angry and useless discussion. I have always been, and hope I shall ever be, opposed to the unnecessary exercise of even acknowledged power. In this country, the very basis of all our institutions is, that power should be neither created nor exercised unless it is absolutely necessary. Does the constitution delegate more power to the Government than is required? I would curtail the excess. Are there any powers granted, whose exercise in ordinary times is not essential? Let them rest. The broad and well-defined basis of society is the plainest test. All laws are restraints on individuals for the mutual or general good. A grant of power to the Government is a negation of power to individuals. Disguise it with what sophisms you may, there is no considerable advantage, power, privilege, that does not, in its exercise or operation, injuriously affect some members of the community. It is a universal law, and one whose strict observancs can alone preserve our Government from the certain pollution of too much power.

At this period it is peculiarly important that we should keep this principle constantly before us. The filmy powers that scarcely held together the infant States, may strengthen and harden with the increase of numbers and wealth, into the bonds of despotism. I am ready to lend my humble aid to the eloquent gentleman from South Carolina, [Mr. McDUFFIE,] in pruning the tree as it grows. On the general question of construction, my opinions agree very nearly with those so powerfully urged by that gentleman. I cannot repress the hope that I may have the pleasure of acting with him at some future day, when time shall have abated the violence of his prejudices and the vividness of his imagination.

I concur fully in the opinion, that the powers possessed and exercised by the various Departments of the General Government, and especially by the Executive, are greater, much greater, than a sincere wisher for the permanency of our institutions would desire; and I wish to God the Daniel of our day (pointing towards the Senate,) would propose some plan to diminish its powers, yet preserve its efficiency and usefulness. I concur also in the reprobation that has been pronounced against corrupt and irresponsible authority; whether it be domiciled in the kitchen of the President or in the vaults of the bank. But

while I agree with these gentlemen in all these abstract positions, although anxious to follow an opening so auspicious and undeniably correct, I am unable to agree with them in their applications or their conclusions. Nay, sir, despite my utmost exertions, I cannot fill up the gap between the correct premises and false inferences.

But for the peculiar circumstances, the question of "the power to remove the deposites" never would have been raised. But it was essential for the party to have some rallying point for their clamor, and, like boys, who scream round a branch that they have thrust into a wandering swarm of bees, to alarm them into settling on it, did the leaders hope that their party would cluster about this question they had started. The right to remove the deposites so clearly existed, that argument is entirely unnecessary to establish it. Whether it should have existed is another question. But that it did exist, the gentlemen admit even in their denials—and the absurdity of this part of their tactics appears from the very mode in which the attack is made. At one moment, the illegality of the removal of the deposites rests upon the *quo animo* with which the President removed Mr. Duane—anon, upon his intent in appointing Mr. Taney an instant after, because the President was (say they) advised to it by a "kitchen cabinet"—then because it was announced in a newspaper; and, 1st, because it was officially announced, and, 2d, because it was not officially announced. Like a will-o'-the-wisp, it flits to and fro over the marsh, settling on each projecting tuft just long enough to show the deceitful footing beneath and the darkness around. The gentleman [Mr. McDuffie] should leave such attacks to his light troops. He may amuse his audience, but will never benefit himself by struggling powerfully and hopelessly through the mist and mire of false reasoning.

But, sir, the power to remove the deposites is one thing, and the expediency of removing them is another. Its consequences are twined closely with the present question. Unable to charter a new bank until 1837, it seemed impossible to escape the embarrassment and suffering threatened by the closing of the present bank, except by perpetuating it. Had we chosen to request the directors to accept a modified recharter, we might, during the period of suffering, have been humble petitioners at its doors, begging it to make a bargain with us, by which its own powers would be restricted. What would have been the language of the bank, with the whole treasury in its vaults, the State banks holding their existence at its will, and the pecuniary concerns of the country in its gripe? How would it have answered the congressional petitioners? Recent events show what it would have been? They would have unhesitatingly rejected the charter which limited their powers and profits, and demanded all or nothing.

Had we refused, its vast and unchecked power would have swept over the country like a tornado, and the public treasure would have been the weapon for manacling public opinion.

Perhaps in the contest the universal necessities might have urged us to grant all the demands of the bank, and thus rivet upon us a slavery from which a revolution could alone have freed us.

But the removal of the deposites, while it took from the bank a large portion of its power to do evil, by the disposition which was made of it, relieved the State banks from the vassalage in which they had been held, and enabled them to supply, in a great degree, the place of the United States Bank, both as a Government agent, and as a mercantile convenience.

But for this measure, the storm would have been as destructive in its results as it has been wicked and wanton in its causes.

The disappointed factions which conspired with the bank to produce it, may thank God that the consummation of their fiendish purpose was prevented by this measure. It has snatched them from the common ruin in which they were about recklessly to involve the country. But for that measure, and their anticipated victory would have been the ruined fortunes of an indignant people, and their fancied immortality, infamy.

Permit me to recur to the past to explain the present. The gentlemen on the other side will unhesitatingly acknowledge the authority from which I quote. March 2, 1811, honorable Mr. Clay, of Kentucky, made a report on a memorial asking for a recharter of the then existing United States Bank: the paragraph I shall quote is the last and the principal one:

"Your committee are happy to say that they learn, from a satisfactory source, that the apprehensions which were indulged as to the distress resulting from a non-renewal of the charter, are far from being realized in Philadelphia, to which their information has been confined. It was long since obvious that the vacuum in the circulation of the country, which was to be produced by the withdrawal of the paper of the Bank of the United States, would be filled by paper issuing from other banks. This operation is now actually going on; the paper of the Bank of the United States is rapidly returning and that of other banks is taking its place. The ability to enlarge their accommodations is proportionately enhanced; and when it shall be farther increased by a removal into their vaults of the deposites which are in the possession of the Bank of the United States, the injurious effects of the dissolution of the corporation will be found to consist in an accelerated disclosure of the actual condition of those who have been supported by the credit of others, but whose insolvent or tottering situation, known to the bank, has been concealed from the public at large."—*Bank History, p.* 448.

How exactly descriptive of the present position of our affairs! How clearly it points out the course to be pursued to avoid, or at least diminish, similar evils! Suppose a stranger to the present party divisions was to be made acquainted with the politics of 1811 and of 1834, and was to be told that the person who made this report still occupied a distinguished place in the arena of politics, would he not at once say that he must have been the adviser, certainly the warm and able supporter, of the measures which he had so clearly and earnestly set forth; and would not the stranger suppose him delighted to observe the good effects which these measures produced? What would be his astonishment, if told that the author of this report, with all his personal adherents, were the violent and most bitter and uncharitable opponents of the very course advised in the report; that they "gloated in ecstasy" over the misery which an opposite (their own) policy had produced, and turned away disappointed and disgusted from the return of peace and plenty so accurately described in the paragraph I have read? I shall not enlarge on this; perhaps my remarks have already unconsciously savored of bitterness. There needs none in this instance. It is its own severest comment.

The removal of the deposites has conferred great positive advantages, as well as prevented distressing evils. A system has been established that renders the Government and the community independent of the United States Bank. That it will operate as rapidly, or as conveniently, I do not believe; but that it operates at all, is a great point gained, that relieves us from the danger which menaced us, and gives us time to examine carefully and decide impartially, upon the plans proposed.

Before discussing these plans it is necessary to determine the standard by which they are to be measured. If we create a bank to regulate the State banks and supply us with a paper currency, be it so. Let the supporters of it avow this as their object, and we can examine the constitution to ascertain whether we have the power to cre-

ate such a bank. If the object be to furnish banking accommodations to the merchants, let this be avowed, and we can search for the authority to create a bank for their especial convenience. If the object be to obtain a convenient mode of effecting exchanges, or transfers of money, or of its shadowy partner, credit, from one place to another without cost, let it be avowed; and when we discover this power to incorporate a company to transport, almost free of cost, the capital and produce of the merchants, I shall ask for a similar provision for the transportation of the implements of labor and the produce of the farmers. In principle there is not much difference between the two, although habitual association has separated them widely.

No one would risk his reputation by asserting that either of these objects was of itself an object which, under the constitution, would justify the incorporation. But its supporters have artfully mingled them together, and covered the violation of the constitution by the arguments of short-sighted expediency.

From the first and last objects mentioned, inferences have been drawn in favor of its constitutionality. The power to regulate the currency makes a fraction of the charter constitutional. A strange mode of regulating! We charter a company that creates a currency, and, so far from regulating it, we give the power (one of the most important that the Government can exercise) to this company, unconditionally, for twenty or thirty years. We have the right to regulate commerce, and on the same principle we should charter a commercial company, with important and profitable privileges, that it might first create, and, by its monopoly, indirectly regulate commerce. So far from rendering even a fraction of the charter constitutional, it leaves the whole with a power too vast to be delegated, even had we the right to dispose of it.

It it said by others that a bank must be created to furnish, not only a uniform currency, but a moderate rate of exchange, in order that the constitutional direction may be observed, that "duties, imposts, and excises, may be uniform throughout the United States." Those who present this argument should remember that specie is the only money known to the laws, and all that laws can do is to require that the same amount in specie shall be every where paid. This was the only uniformity contemplated; any other would be impracticable. If food is assumed as the standard, you will find specie worth more at Cincinnati than at New York; if labor is assumed, you have a directly opposite result; and if the proposition be true, it would, of course, be the duty to modify imposts, &c. accordingly. In other words, admit the argument to be good, and it becomes our duty either to order by law that the prices of all articles shall be the same throughout the United States, or to vary the amount of duties, &c. with the incessant fluctuations of relative values.

Although, as I have already said, I am in favor of a United States Bank, it may well be supposed that I do not think any one of the objects mentioned sufficient to justify the charter under the constitution. So many appeals have been made to that corner-stone of the Government, that the word unconstitutional has almost acquired the meaning of distasteful. As I am unadorned with the logical obscurity or hair-splitting acuteness of many of its honorable expounders, I shall refer to it solely for instruction and guidance.

We all agree that substantive powers must be distinctly granted in the constitution. But as to adjective or implied powers, they are all varieties, from the deniers of their existence, through every shade of coloring, to the extremes, who regard the constitution as a mere convenience, to be consulted as an atheist consults his Bible, to find an excuse for the violation of the plainest command.

Those really desirous of observing the constitution will readily admit that no adjective power can be assumed, as implied in the grant of a substantive power, which is not an essential auxiliary to the exercise of that power. Even if it be deemed essential, there is the further condition that there must be nothing in its purpose or tendency at variance with the general tenor of the constitution.

As a necessary consequence, if any institution be deemed essential to the exercise of any power or the performance of any duty, it should be endowed with such, and only such, powers and privileges as will enable it to effect that specific purpose; and if it appear that any of the powers conferred are in their tendencies inconsistent with the constitution, they should be at once withdrawn.

If improvements in political science, or any other causes, should enable the Government to exercise the powers and perform the duties without the aid of these institutions, it would be the duty of the Government to dispense with them. If several auxiliary agents are proposed as means of exercising a certain substantive power, that one should be chosen which effects the purpose with the smallest amount of power and privilege. I should be governed by precisely the same principles in creating an office. All the power essential to perform the duty, and all emolument necessary to procure an officer competent to discharge the duty, I would freely grant, but not an iota of superfluity.

If we examine the several plans by these rules, we find the present bank clothed with powers, not merely essential to perform the duties of Government agent, but with such as have made it the antagonist of the Government, and the arbiter of our commercial prosperity. Sir, this vast power, incautiously granted at a period of great distress, is now urged as a reason of its recharter.

So much has been said, and so much will be said, of this institution; the proofs against it are so numerous, so well known, and so decisive; and the final verdict of condemnation so universal, that I need not weary you by discussing it. All agree in the necessity of restrictions, except the ultra redemptionless friends of the bank; and if a bank is to be established, the only difficulty among the sincere supporters of the measure will be as to the nature and extent of these restrictions.

The duties required of it by the Government are, that it should receive, keep, and transmit the revenue. It must of necessity receive deposites, and buy and sell bills of exchange. As it would not at all interfere with the duties of the bank to the Government, individuals might deposite money, receive bills of exchange, and do business with the bank on the same terms as the Government. For the safe-keeping of these deposites, and for their transportation, or for the bill of exchange, which is equivalent to it, the Government and the individuals should pay a fair compensation to the bank. This is actually done by giving to the bank the use of the deposites, and by the the payment of premiums on bills of exchange. But the Government, instead of paying for these and other acts of agency, in money, pays it by the grant of additional powers and privileges, which are converted by the bank into fruitful sources of profit and influence.

It is true that the greater portion of these powers and privileges are ordinarily granted to every bank; and so intimately have they become associated as to be deemed essential the one to the other.

A bank, in its simplest state, is merely an agent which engages to keep safely the moneys deposited, issuing to the depositor a certificate of the deposite, on the presentation of which the money is restored. Even in this stage, a species of currency is supplied by the transfer or assignment of this certificate. It is soon found that the bank is the most convenient resort for the transaction of business between those who wish to borrow and those who are able to lend. The bank becomes the common agent, and is soon induced, by the opportunities of loaning, to obtain a capital of its own, and actually loan it at

interest, receiving instead the notes of the borrowers. The circulation of the certificates, and the long time elapsing between their issue and their return upon the bank, suggests the idea of loaning fictitious certificates of deposite, receiving the notes of the borrowers as money. This business has no limit, save in the necessity which the bank is under to preserve the appearance of solvency, lest its certificates should depreciate. As the operations extend, certificates of deposite in banks, or with bankers at a distance, are received in payment of debts, &c. As these obligations are mutual, though not coincident, the bank becomes the agent of the exchanges, and finding it profitable, draws, and permits to be drawn, bills of exchange on its own credit, when more convenient than the purchase of bills actually held by others.

The organization of the bank is now complete. The only difference between that whose growth has been sketched, and the present bank, is that, instead of certificates of deposite, the present banks give their own notes in exchange for the notes of borrowers. As the discounts are thus made a mere traffic of the credit of individuals, for the more current credit of the bank, there is no limit to it, except the one already mentioned. These may be termed the components necessary to constitute a bank. The other duties, powers, and privileges, depend upon the laws which create them. The mere incorporation gives them a high degree of credit, which may be called their moral capital, that raises them at once above competition, and enables them to serve or to injure the community in which they are located. The temptations to excess, addressing themselves to the covetousness and the ambition of the directors, are often too powerful for their sense of right and duty. The greater the amount of credit, in every department of business, the greater the profits, the greater the influence of the bank, and the greater the number of persons interested in upholding it. The present bank has, unfortunately, well understood and skilfully applied these truths. In any institution to be now created, I should jealously refrain from enabling it to follow the pernicious example. The guards must be in the charter; checks upon its operation, however plausible, must ever be ineffectual. The extension of business is always made under the luring guise of accommodating the public, and no occasional check could restrain it.

Of all the propositions for a bank, that will receive my support, as I have already said, which performs the duties required of it by the Government, with the smallest amount of power and privilege. We would not, by law, directly operate upon the persons or property of our fellow-citizens; yet, we would heedlessly create an institution that influences the first and controls the last.

I would not consent to so great an inconsistency. I would curtail its capital and measure out every immunity with scrupulous care. I should hesitate to grant it a charter unchangeable for a certain period. I doubt the power of one Congress to bind succeeding Congresses by an agreement with a creature of its own making. But, in this instance, I should be especially doubtful. The constitution gives us the right to regulate the currency, fix the value of coins, &c. By creating a United States Bank, as proposed, we throw this power into its hands, to the deprivation of succeeding Congresses. Can we do this?

Desirous as I am for a United States Bank, I should wish its charter to be subject to such modifications as the people, through their representatives, might from time to time think necessary. Nor would I sell this power for a bonus. I would not yield the right to relieve the people for a paltry pittance to the Government, although I would willingly vote for an equitable distribution among the States of the surplus profits, beyond a rate fixed by law. A bank thus restricted, which the power of the people could reach, liable to such amendments as experience might show to be necessary, could not and dare not tamper with the interests of the community.

But, sir, this bank could not go into operation for two or three years. Meanwhile, that our legislative action upon it should produce any good effect, requires the sincere and active co-operation of the present bank. But, sir, every one in and out of this House knows that "war, war to the knife," against all who will not fight under its standard, is the positive determination. It has set us and our Secretary, President and committee, at defiance; and however much we may pity and regret the madness, we cannot humor it by yielding the country to its sway.

The hope which I (in common, I believe, with very many members of this House) entertained, that the friends of the bank would eventually aid us frankly and zealously in seeking a remedy for the present, and a safeguard for the future, is past. I hoped that a strong sense of public duty, that sympathy for their constituents, would induce them to turn from the unworthy employment of deceiving their constituents as, to the causes of their embarrassments, to their responsible and appropriate duties as legislators. This course on their part would have done much to turn aside the strong current of public indignation, which is now rising and will soon set irresistibly against those who created public calamity for selfish political purposes, and attempted to abuse the public mind with repeated and excited statements of wrong causes. But, sir, the motives and the destinies of these ultra devotees of the bank will be judged of and decided by their own constituents. Had I thought a little while ago that their devotion would be so unrelenting, I should have regretted it far more than I do now. The change which has taken place—so well described in the quotation I have read; the improvement in the money market; the improved and gradually improving condition of business; and, more than all, the return of confidence and calmness—render their co-operation less essential than I then deemed it.

Meanwhile, the temporary expedient adopted by the Secretary of the Treasury has weathered the storm, and in doing it has given the best proof of its practical stability.

I say frankly, Mr. Speaker, that when the plan was first developed, serious objections presented themselves to my mind. My experience had been such as to render me exceedingly distrustful of State banks. Under good management, which limit their business to the wants of the community, they may unquestionably be made instruments of much usefulness. But I have seen them, by adventurous dealings, create a false prosperity, which crushed in its fall the well-earned properties of the honest and industrious.

Feeling all this as an event of yesterday, I was unwilling to advocate any measure which would place in their power the pecuniary interests of the country, stimulate their business beyond the proper limit, or band them together under executive influence. Even if the first objections had been obviated, the last was fully sufficient to guide me in forming an opinion. The same reasons that would prevent me from supporting a bank with large powers, would induce me to oppose any arrangement which would bind the State banks together, and subject them to a common influence. I would not assist in cut-off the Hydra's head, that twenty might spring from the wound. At the first glance, this seemed to me the necessary result of the system. But the bill reported by the Committee of Ways and Means, and now under consideration, obviates this objection. It places the banks out of the reach of executive control—responsible to Congress—and merely requires that they should perform the duties of safely keeping and properly transmitting the public moneys. All the duties that we would create a bank to perform are performed by these State banks, and they incur no responsibility, and have no more connexion with

the Government, or with each other, than is essential to the performance of these duties.

So far as our legislation is concerned, it is precisely as if a United States Bank had been proposed, which should merely receive the public deposites, and, by domestic bills of exchange, distribute them, as required by the Government. Was it practicable to have such a United States Bank, without the addition of any powers or immunities, every one who pretends to regard the constitution would be bound to support it. No objection could be raised to the powers, either by reference to the constitution or to the consequences of exercising them. The proposed bill is identical with this in principle, and experience has shown it to be practicable.

I wish I could discern its operation upon our commercial interests, (mentioned in the two first objections,) as clearly as I perceive its constitutionality. I have thought for many years that some controlling power was necessary to check excessive issues of credit by the local banks. Our credit system, resting upon the narrow basis of our small metallic currency, and supported alone by public confidence, fluctuates with every cause that affects it—whether that cause be the excessive issue of fictitious notes, by ill-conducted banks, or the excessive issue of fictitious alarms, by heated partisans in Congress. To these evils no adequate remedy has ever been applied. The United States Bank has served indirectly as a fly-wheel to moderate these fluctuations, although it has been by gathering to itself the power to produce at any moment fluctuations far more disastrous. One of these we have just experienced. But under the organization which I hoped to have seen adopted, this would not probably have been intentionally repeated. Yet, however perfect may have been the organization, the evils could only have been palliated. They are inseparable from the system. Until the proportion of specie to the paper currency is greatly changed, we cannot be exempt from occasional and sometimes ruinous fluctuations.

Our credit system is a great good converted by excess into an alarming evil.

Mr. Speaker, I will take the present moment to notice the amendment presented by the honorable gentleman from Illinois, [Mr. DUNCAN,] which is, in fact, a recharter of the present United States Bank; in which there is much to approve, and more to condemn. To its adoption I have insuperable objections.

First. Should Congress present such a recharter to that audacious institution, it would be spurned from the bank as impudent on the part of the Government.

Second. I would never serve or court that institution while she stands in contempt of the House, the people, the nation; setting the laws and the constitution at defiance. Let her open her doors, her books, her vaults, to the inspection of our committee; then, and not till then, will it become the representatives of the people to accept or offer terms to the bank.

To the amendment offered by the honorable gentleman from Virginia, [Mr. GORDON,] and the proposition of the honorable and eloquent gentleman from Pennsylvania, [Mr. COULTER,] I have an objection equally conclusive to my mind. They propose that the treasury of the nation shall be kept by the Treasurer and his agents, until disbursed. This proposition adopted, and millions of the money of the people, from the time of collection to the period of disbursement, would be drawn from circulation, and rest as useless as if out of existence. This could but produce fluctuations, and periodical ruin and distress.

In reading an ingenious pamphlet, by a gentleman of Philadelphia, aiming to prove that paper notes were better than metallic coin, I could not help noticing the inapplicability of the reasoning used in the exact sciences to political subjects. If all the causes which operate upon the result could be condensed in a syllogism, or stated in an equation, the conclusion would be infallible. But moral influences, in their countless varieties, admit no such easy estimates or abridgments; and he who relies on having mastered them, will often discover that his mathematical truths are moral absurdities.

In examining credit, the first point presented is, the lenders and borrowers.

The thing lent is uninvested value, which the lenders think it more profitable to loan to the borrowers than to keep it in their own hands.

The inducements to the lenders are—

1st. The supposed certainty or security that the loan will be repaid.

2d. The interest to be paid for its use.

The security or certainty consists in the ability of the borrower to fulfil his engagements. The case of a loan on endorsement is no exception; the endorsement is merely a certificate of this ability, for the truth of which the endorser is responsible. In the extreme case, when the endorsement is thought to constitute the sole security, the loan is in effect first made to the endorser, and by him handed over to the borrower.

The actual ability of the borrower comprises the following items:

1st. His property when the loan is asked.

2d. His opportunity of investing profitably his labor and capital, both owned and borrowed.

These may be termed his "accidental capital."

3d. His physical ability, including health, strength, and mechanical skill.

4th. His intellectual capacity, including industry, judgment, talents, education, and professional skill.

5th. His moral character, the indispensable requisite which ensures the preservation of his capital from waste by expensive habits, and guaranties the punctual and honest fulfilment of his engagements.

The three last may be termed his personal worth, or "personal capital," although the fifth item deserves a separate place, by the name of "moral capital." It may be possessed by all, and the young farmer and mechanic may rely on it with perfect certainty for the attainment, with proper exertions, of fortune and reputation. It is the basis of confidence between individuals, and the aggregate of these individual "moral capitals" is the "moral capital" of the community—the basis of public confidence.

These components are combined in very different proportions in different individuals. One of them, (1st,) property, may be entirely wanting, but all the others must be possessed in a greater or less degree, and their sum is the ability of the borrower or the actual security to the lender. A deficiency in any one of these components diminishes this security, which is one of the inducements to the lender, and renders it necessary to increase the other inducement, the interest to be paid for its use.

The better the lender knows the borrower the nearer will the supposed security approach the actual security, and the interest asked, to the interest which should be paid.

Assuming the aggregate of personal capitals such as to render loans liable to no extraordinary risk, the investment of capital in loans will be regulated by the same laws that govern ordinary investments.

The lenders will not loan their capital at less profit than they can obtain at the same risk and with the same trouble by investing it in any other way; allowing for the greater or less facility with which the investment may be disengaged and converted into money.

The average profit upon capital fixes, therefore, the lowest rate of interest that the lenders will receive, and they will obtain as much more as they can get.

The interest actually paid depends upon the relation between the supply of capital for loans to the demand for them. When these are equivalent, the average in

terest actually paid will coincide with the lowest rate of interest just mentioned. The lowest class of borrowers will be those whose profits, derived from their accidental, their personal, and their borrowed capital, are barely sufficient to pay the interest and to subsist themselves.

If, as is usual, the supply is less than the demand, the lenders can exact a higher interest.

The lowest class just named cannot pay the increased rate, and, of necessity, thus cease to be borrowers.

The next higher class in the scale of profits take their place with profits diminished in like manner to a bare subsistence. The additional rate of interest occasions other less profitable investments to be disengaged into capital for loans. This increased supply diminishes somewhat the rate of interest, enlarges the lowest class of borrowers, and brings about an equilibrium between the profits of these and other investments, raising somewhat the general average. Similar changes are caused by every increase of the disproportion.

The same remarks apply to every individual case. Circumstances of position or necessity may limit the supply available to the borrower, and the lender may therefore exact the highest rate, leaving to the borrower only as much of the profits as will subsist him.

These may vary from the general average of interest as well as those which are made under the spur of some especial necessity, in which the usurious rate is only limited by the satiated covetousness of the lender, or the extreme ability of the borrower.

This analysis exhibits the true sources of credit which enables one man to borrow the value which may be held by another.

In every country containing intelligent, industrious, and honest citizens, these sources of credit exist. That they should be available, there must be two other requisites: First, that the country should afford opportunities for the profitable employment of the capital borrowed; and, second, that there should be capital to loan.

This capital consists of value accumulated in the country by labor, or accumulated by labor elsewhere and brought thither.

This value should be easily transferable, and universally receivable. It should also retain permanently the worth assigned to it when loaned, that the borrower might, if possible, return to the lender the identical value loaned.

The metallic coins fulfil all these conditions, and they constitute the transferable capital actually accumulated by labor.

Any fluctuation in the value of this transferable capital will occasion embarrassment and loss, as the borrowers will, in the one case, have to repay more, and the lenders, in the other case, to receive less, than in right bound to do.

A country possessing a metallic courrency will not be liable to any extrinsic fluctuations, except such as may arise from material changes in the relative prices of the mass of its staple products, compared with those of the countries with which it is connected by commerce; and these fluctuations will be slower and slighter as the metallic currency is greater in amount, the staple products more numerous, various, and valuable, and foreign and domestic commerce more rapid and extensive.

The sum of the accidental and personal capitals of individuals to the national capital, and the transferable capital or currency, coming in contact with every species of property, diffuses among the whole an impulse upon any part, and diminishing it as it spreads it into an average effect upon all. This currency, or transferable capital, should perform two important offices:

1st. Serving as the means of estimating and exchanging all other values.

2d. As the medium for correcting and preventing the fluctuations arising from sudden changes of relative value.

It is evident that the agent for performing these offices must be in itself uniform, permanent, and sufficiently plentiful and widely diffused, to reach every kind of property. If such a currency exist, and co-existent a credit system, resting on a well-ascertained basis of "accidental," and, especially, "personal" capital, public confidence cannot be destroyed, unless some great national calamity annihilates existing capital. Even if, in a particular district, such causeless distrust should exist, the metallic currency, unaffected itself, would furnish the means of checking it at once, perhaps, in some instances, at slight sacrifices by individual debtors. The credit system, in itself is, as I have already said, a great good, when resting upon the basis of accidental and particularly personal capital, and supported by a uniform and permanent currency.

In this country we have every element that I have mentioned, in a high degree; personal capitals in a higher degree than in any other country; and we are only deficient in a permanent and uniform currency.

Our banks have coined credit into transferable capital. An adventurous and beardless nephew of a bank director, with no "personal capital," obtains a loan of "bank credit," in the shape of notes "of promise to pay," and gives them his own note instead.

The farmer who sells his corn and pork to this youngster, and receives these "bank credits" in exchange, little thinks that the eventual means for redeeming these notes are really the note of the young man placed in the bank—a note for which the farmer would not give him an armful of husks. But all this would be corrected by clear-sighted self-interest, if the means of doing it were supplied. It is not so much the excess of credits as it is the want of the metallic basis, which would limit while it supported it.

It is worse than nonsense to talk of diminishing credits. They will always, in an enterprising country like this, be kept to the highest point to which the borrowers can carry them. Create a bank in every village, and you will find persons eager to borrow every cent, and with personal capital as security. But these banks, limited in the real value at their disposal, are unlimited in the fictitious values, the bank notes—their own credits, far beyond the proper ratio to their means, these they can issue to any extent that a gambling calculation of chances may permit. Here is the evil, and its consequences are obvious and disastrous.

The first effect is to drive away their rival, metallic currency, and evidences of credit receivable elsewhere. These are taken away, because they will pass abroad. The bank notes will pass only at home, and therefore they will stay at home. A paper currency is immediately created, as unstable as the varying opinions of men. A bank which will throw into circulation a large quantity of these bills, and, from the public confidence in its notes, or other causes, can maintain them in circulation, has the control of the currency, and necessarily, in a degree, of the commerce of the country.

This the United States Bank has done, and has made most wicked use of the power. It is what the State banks did from a fancied necessity, during the war, and from eagerness of gain at a later period. But the remedy is not to diminish the number of banks; those remaining will issue more, to supply the vacuum left by their notes.

Let the banks be as numerous as the leaves on the trees, if they are called for; they are useful agents—especially our State banks—between the capitalists and the honest and industrious men whose only wealth is their "personal capital." No, the remedy must reach the currency itself, and not the credits founded on it.

Make the currency good, and the credits will be good. As I have said already, the only permanent benefit is to be obtained by increasing the quantity of coin in proportion to the quantity of paper. I will not now weary you

with an analytical attempt to ascertain the exact proportion that should exist between them. All that it is now necessary to understand, is, that our currency is composed of too much paper and too little coin.

We must change the proportion. There is no fear that we shall have too much coin or too little paper. Every change will make the currency more stable, will diminish the evil influence of the banks, while it increases their salutary agency, and will preserve our farmers, mechanics, and merchants, from the periodical losses which they have heretofore suffered.

How, Mr. Speaker, is this object to be accomplished?

Commerce comprises two divisions:

1st. Local commerce.

2d. General commerce.

It is necessary that the currency should, by the division of its value, be adapted to both of these.

Local commerce comprises all traffic which does not require the transportation to a distance of either of the values exchanged. All ordinary purchases and sales which are occurring every moment in every part of the Union, incalculable in number and in amount, come under this head—including all the ordinary transactions of the farmer, the mechanic, the lawyer, the doctor, indeed of every citizen except the merchant.

These constitute at least three-fourths of the entire commerce of the country. As no transportation of money is necessary, the metallic coins would answer, even though the amounts were larger than they ordinarily are. Gold pieces of $20, $10, $5, and silver dollars and halves, with quarters, tenths, twentieths, (5 cent pieces,) and cents, for change, would answer every purpose. The proposition is too plain for doubt. I proceed to the second branch, general commerce, in which one or both of the values exchanged is transported to a distance.

I will first remark, as a general principle, that, when any article of value is transported from the place of production to the place of consumption, a corresponding value is returned from the place of consumption to the place of original production. When applied to local commerce, this merely means that every article which is bought, is, in general, paid for.

To take an example. The western merchants buy, on credit, goods in New York, sell them for produce in the West, ship this to New York to pay for their goods.

This is the simplest possible case, and one which does not very often occur. Our own farmers are frequently their own merchants—take their produce to New Orleans, sell it for money, purchase groceries with a part, return with the rest, and pay cash to the merchant for his dry goods. This cash the merchant must now transmit to New York, to pay for his goods. It would be as tedious as it is unnecessary to trace out this principle in the infinite and complicated varieties of its application.

It is evident that, as the products of one country cannot, in most instances, be exchanged directly for those of another, that the returning or paying value must be currency, or transferable capital.

If there were no currency but metallic coins, a large portion of the coins of one place would be travelling to another, at the same instant that a like portion of the coin of the second place was travelling to the first place. For instance: New Orleans sends groceries to Cincinnati, and Cincinnati sends produce to New Orleans. Supposing no currency but coins, the money to pay for the groceries would be on its way from Cincinnati to New Orleans at the same time that the money to pay for the produce would be on its way from New Orleans to Cincinnati.

The inconvenience and expense of transporting the coin, although small in the instance mentioned, would be, in most cases, an oppressive tax upon the people. This would not be the only evil; the coin, while on its way, would be a dead loss of commercial capital, and its removal from the local commerce would be deeply felt. The withdrawals and sudden arrivals of considerable amounts of specie would occasion injurious fluctuations, which, though small in degree, and limited in extent, in each instance, would be deeply injurious in the aggregate.

I will not follow the inquiry further. It is evident that metallic currency is as unfit for general commerce as it is necessary for local commerce. The question at once arises, What is the proper currency? It must be transferable, and such as, when used, will not withdraw any portion of productive capital from the community.

The interchange of commodities, effected by commerce, suggests at once the means.

He who owes the New Orleans merchant for his groceries, applies to the pork merchant, to whom the commission merchant at New Orleans is indebted for his produce, and pays him in money for an order on the commission merchant. This is sent to the grocer, who, on application to the commission merchant, obtains the money. The same is done in New Orleans, and the debts, all round, are discharged without sending a dollar out of either neighborhood.

But, as those who owe debts in distant places cannot easily find the persons who have debts owing to them in the same places, an agency is necessary to do this business. As a matter of course, it falls into the hands of banks or bankers.

Those who owe debts abroad pay the amount in money to the nearest bank, and receive, instead, an order or bill of exchange on the bank near which the debt is to be paid. Meanwhile, those abroad who owe debts in this country, have in like manner purchased bills of exchange of their own banks on the banks in this country, and forwarded them to their creditors here.

All the debts are thus paid, without the transportation of a dollar; the bank receiving a small premium on each bill, as a compensation for its services.

As the debts mutually owed do not exactly balance each other in point of time, the banks find it expedient to extend their business on their own capital, and to ensure greater confidence by becoming responsible for the punctual payment of their bills of exchange.

This is the system of exchange now in operation. A more admirable or important one cannot be found in the whole frame-work of society. It is to commerce what printing is to knowledge.

It was by deranging this that the United States Bank produced embarrassment among the merchants, far more than by the direct operation of diminishing its discounts. Had it merely ceased to issue domestic bills of exchange, the State banks would have supplied the void. But its operations were artfully directed to prevent, or at least delay, the application of this remedy. The attempt has failed, and its effect has passed, or at least only remains in memory, that justice may be done to those who advised and aided it.

From what has been said it is evident that there must be at least enough paper money or bills of exchange for general commerce. There are branches of general commerce for which paper money, in the form of ordinary bank bills, of a high denomination, would suffice, and probably another increase of notes for large amounts might be made without risk, to be used in the largest payments of local commerce. But every such increase takes the place of the corresponding quantity of metallic coins, and by so much diminishes the stability of the currency, and, when carried further, converts it into a power fluctuating at every impulse, and ruinous in every fluctuation.

If, then, any paper money is issued, beside *bona fide* bills of exchange, the notes must be for such amounts that they will not come immediately in competition with the metallic coins.

Withdraw all bank notes under five dollars, and silver dollars and halves will rapidly fill their place.

Withdraw all notes under ten dollars, and the same effect will be produced in a higher degree.

The excellent proposition of the committee on coins will, if passed into a law, greatly aid this operation, by causing gold to circulate with silver, and thus enabling us to diminish the quantity of bank notes more than we could otherwise do.

By carrying it still further, and withdrawing all bank notes under twenty dollars, gold and silver pieces would soon fill their places.

We need not fear going too far—the danger is in doing too little, not too much. We see the limit fixed, by the wants of general commerce, far ahead of us. It is impossible for us to reach it. Even if any apprehensions were entertained of our doing too much, the gradual manner in which the change is to be effected will remove them. In its progress we shall have full opportunity for examination and experience, which will, if impartially acted upon, urge us forward to its completion.

I will not lengthen out a speech, already too long, by an investigation of the proportion which should exist between the paper money and the metallic coin, and the proportion which should probably exist under the system proposed.

It may be remarked, generally, that the paper money would be in far greater proportion to the business done by it, to wit, general commerce, than the metallic coins to the business performed by it, to wit, the local commerce.

The metallic coins, great in number and small in their several amounts, change hands rapidly and incessantly, making by each change an item of local commerce. While the notes and bills of exchange, few in number, and large in amount, change hands far less frequently, requiring in many instances considerable time to perform a single act of general commerce.

This will account for the disproportion at present existing between them, which is apparently contradictory of the principles I have stated.

Many of the errors in opinion upon this subject would in like manner be explained away or converted into confirmations. I wish much that I had time to examine some of the most common, by bringing them to the test of the principles which I have laid down.

These errors have arisen almost entirely from the want of a clear understanding of the differences between local and general commerce, and the currency required for each.

The merchant engaged in general commerce sees plainly that coins will not do his business, and therefore thinks a metallic currency the dream of a visionary.

Financiers and writers upon the subject, deceived by the apparently large amounts of the business of general commerce, and not noting the infinite rills which constitute local commerce, have strengthened the erroneous opinions by ingenious arguments.

I am not aware that the distinction has ever before been clearly taken. I hope that the novelty will not prevent the truth from being acknowledged and acted upon.

It is true that the effect will be to diminish the circulation and the corresponding profits of the banks; but a thousand fold indemnification will be found in the perfect currency, which would ensure to personal worth its due credit, and to honest industry its proper reward.

I need not say that I consider the United States Bank, and the removal of the deposites, subordinate to this great question. Thoroughly convinced as I am of its necessity and importance to the nation, I cannot regard without deep regret the obstacles which party politics may present to the passage of a bill essential to the interests of our common constituents.

Strong indeed must be the prejudices, and bitter the party feeling, which will prevent a western man from supporting it. Those who come from the cities, who have been associated with the stockholders and stock brokers, for them there may be some excuse, however weak and insufficient. But we of the West, who are not saddled with such a moneyed power, nor yet cursed with the system in all its complicated and injurious excess—we, whose constituents are industrious farmers and mechanics, whose property depends upon a stable currency, how we can oppose the measure passes my knowledge. If the bank party dislike the financial system of the Government, as now existing, they should vote for this bill, to place it on a better footing.

I agree, with them, that it is inexpedient to leave the temporary arrangement made by the Treasury as it is. Highly as I esteem the ability and integrity of the Secretary of the Treasury, and the pure patriotism and enlightened judgment of the President, I would not wish the State banks to remain connected with the Government as they now are, unless an imperious necessity required it.

For once, let us thrust aside party barriers, and move on calmly and impartially in the discussion and adoption of this measure.

If the distressed gentlemen are really desirous of applying a corrective to our fluctuating currency, if they will cease awhile from panic speeches and panic letters, and turn seriously to the business of legislation, an opportunity is now afforded of applying that correction. Grant that the mode of applying it be not the one they would prefer, yet they should lend their aid in rendering it as effectual as possible. I do not myself believe that the system proposed in the bill will effect the purpose as easily and as rapidly as a properly-constituted United States Bank would do. But for two years we cannot bring into operation a new bank, even if we were all agreed as to the restrictions required by the constitution. The measure proposed is the only one which is practicable. It has been shown to answer the purposes of the Government; it cannot operate injuriously until the United States Bank notes are withdrawn from circulation, and by that time, if we join heartily in applying the corrective provided by the bill, it will be out of the power of any or all the banks to seriously affect our currency. Meanwhile, it leaves us perfectly free to modify or abolish it, as experience may direct. A decent respect for our constituents should of itself induce us to support this measure, that we may learn the opinions to which the events of the last six months have given rise, instead of forestalling their influence by binding them down to an institution which they may utterly reject.

But the hope of their acquiescence is, perhaps, visionary. It is the necessary consequence of high excitement, that men, acting in mass, are, by their own momentum, forced farther than any one individual would have gone. Party animosity grows into a habit; and those who are tainted with it read, speak, and think, of but one side. It is far more probable that they will do as some of them have done before. The same influences were brought to bear when the last United States Bank approached the expiration of its charter. A quotation from a speech of the same distinguished gentleman from whom I have already quoted, will show an identity as remarkable as it is reprehensible.

Extract from Mr. Clay's speech on the bill to renew the bank charter of 1791, *made in Congress, February* 15, 1811.

"I shall not stop to examine how far a representative is bound by the instructions of his constituents. That is a question between the giver and receiver of the instructions. But I must be permitted to express my surprise at the pointed difference which has been made between the opinions and instructions of State Legislatures, and the

opinions and details of the deputations, with which we have been surrounded, from Philadelphia. Whilst the resolutions of these Legislatures—known, legitimate, constitutional, and deliberative bodies—have been thrown in the back ground, and their interference regarded as officious, these delegations from self-created societies, composed of whom nobody knows, have been received by the committee with the utmost complaisance. Their communications have been treasured up with the greatest diligence. Never did the Delphic priests collect with more holy care the frantic expressions of the agitated Pythia, or expound them with more solemnity to the astonished Grecians, than has the committee gathered the opinions and testimony of these deputies, and, through the gentleman from Massachusetts, pompously detailed them to the Senate! Philadelphia has her immediate representatives, capable of expressing her wishes, upon the floor of the other House. If it be improper for States to obtrude upon Congress their sentiments, it is much more highly so for the unauthorized deputies of fortuitous congregations."—*History of Bank, p.* 354.

I leave to others the application of the quotation. Prophecies of ruin were then made, and the prophets worked anxiously for their fulfilment. The same who prophesied that the election of Jefferson, the repeal of the sedition law, the war, nay, our many victories, would ruin us. Happy country, that could thus be ruined! Although the gentleman from whom I have quoted no longer advocates the principles for which he then contended, notwithstanding this and other changes read to us the humiliating lesson, that, while events sweep onward in one unvarying chain of cause and consequence, the men who patriotically and ably struggled against them at one time become their pliant tools at another; yet enough of those who were then foremost in the democratic cause still remain among us, to aid us with their counsel and experience.

A speech made against the recharter of the United States Bank in 1811, by my honorable friend from Kentucky, [Colonel JOHNSON,] then, as now, a distinguished member of this House, furnishes an explanation of the present and a guide to the future. This contest is to him but a repetition of the battles of his youth, and will but increase the many obligations which this country gratefully acknowledges to be due to him.

"The influence of this bank is palpable and notorious. We have the evidence from the long roll of petitions now imploring Congress to renew the charter. If in twenty years this bank is to be the idol of some and the alarm of others—if the solvency of so many individuals depend on it—if ruin and devastation will, in the event of its dissolution, spread wide in the country—then, sir, it will only require twenty years more to make it stronger than the Government. To induce us to vote for this institution, we have been persuaded, flattered, alarmed, petitioned, and threatened; and we have been amused with the rise and history of the banking system."

How truly this presents the present power of the bank; and the succeeding paragraph may apply now to the entire West as it then applied to Kentucky.

Again: "My colleague, [Mr. MCKEE,] whose opinions I had been in the habit of considering as my own, until this unfortunate question which divides us, has stated that, in his opinion, the dissolution of this institution would be felt by the citizens of the Western country, and that our surplus hemp would not command as good a price. I differ in opinion from my colleague, if he supposes the Western country will feel any great pressure from the dissolution of this bank. I grant, the people of Kentucky may not be entirely exempt from some inconveniences common on such an event. But our produce will fall from other very different causes. Interruptions in commerce, stagnation in trade, bankruptcies throughout the commercial part of the United States, arising from bankruptcies in England, which have occasioned the return of many bills from England protested. These are the causes which produce distress, and will continue to produce it, until we are a people less dependent on foreign commerce. But believing as I do on this subject, viewing the effects of this great political moneyed institution with abhorrence, I would not vote for it, let the temporary distress be what it may. I would rather see the present crop of hemp brought to one deposite, which would make a bulk larger than this Capitol, and consumed with a lighted torch, and ascend to the heavens in smoke as a sacrifice, than vote for the passage of this law; and, sir, the people I represent would justify my vote. They would bear the loss without a murmur, they would act the part of freemen worthy of freedom, they would magnanimously bear the calamity without complaint, if their patriotism required the sacrifice. They are a most worthy people, a virtuous people, an enlightened people, a glorious people, descendants of this great American family, inheriting that spirit of independence which equally sustained our cause under defeat and victory, upon all the battle-grounds of our Revolution. I will not be alarmed out of my vote by clamor, no matter from what quarter it may assail me. I never will be driven from my duty by alarms and fears. I will stand firm to the cause I conceive to be just, and the people will support me; they despise wavering and temporizing. If you continue this charter twenty years more, you can never put it down." See p. 233.

"No, sir; instead of having petitions which would reach from the Speaker to the seats of the members, you would have them packed upon your tables until they would intercept my view in addressing you. Yes, sir, they would rise up higher, and implore that Goddess of Liberty who presides over the deliberations of this House. We are told that this bank is necessary to the collection, safe-keeping, and the transmission of the revenue to different parts of the United States. It is stated that the State banks are strangers to us, and cannot be trusted with the deposite of public money. I am sorry to hear such a sentiment. It has originated from a panic, an alarm, an ideal danger. That great and good man, the Secretary of the Treasury, has told you otherwise by his report now before me, of date 12th January, in which it appears that of about $2,400,000, upwards of $800,000 are deposited in the State banks, $75,000 of which are deposited in the State Bank of Kentucky, and I should be sorry if it was not as safe there as in the hands of the United States Bank, in the possession of foreigners. If State banks will not do, let the United States build vaults for the safe-keeping of the revenue.

"But, sir, the alarming consequences which must arise from a dissolution of this corporation. It will deprive us of a circulating medium, it will interrupt commerce and produce bankruptcies. It is to produce the distress of farmers and the ruin of merchants; it is to prevent emigration, and it is to strike the foundations of the Government. This picture gives me no alarm. It is the picture of a wild and distempered imagination. If serious injury will be felt by many in the power of this moneyed aristocracy, I feel and sympathize with the sufferings of those who may be needy without any fault of their own; but something is due to posterity, and even in that point of view I am not willing to entail upon them the baneful effects of a great moneyed corporation, with a capital of twenty millions of dollars, extending its arms of power and influence to every part of the United States, and having the destiny of good men within its control, whenever it receives the nod to exercise its giant power. No, sir, I am ready to see and feel the sad crisis which has been described. If we die with less money, we shall live in more honor and enjoy more happiness. I wish to see

whether so much depends upon this corporation: If so, it is the greater reason why the poison should be destroyed. Like the strong man we read of in holy writ, let us see if the violent death of this corporate body will pull down the pillars of the constitution, that another Volney may sit upon the ruins of this Capitol and mourn the fallen empire of this great and happy republic."

These arguments are at this moment entirely, peculiarly applicable.

At that time they were deemed amply sufficient by the democratic party throughout the Union; and time, however much it may change individuals, cannot change principles. Those who advocate these principles will be with the people, whether their opponents call them democrats or tories, and their opponents will be against the people, whether their names be federals or whigs.

Let us fervently hope that no national disasters will now occur to force us from the judicious application of these principles.

The, war which followed the expiration of the charter of the last United States Bank, stimulated the State banks to excessive issues, which drove specie out of the country, and stimulated a wild spirit of adventure, that raised prices far beyond the proper standard. On the return of peace, when our excessive paper-money prices came in collision with the cash values of foreign countries, the bubble burst at once, spreading ruin over all. The general failure of the ill-managed banks, and the utter prostration of business, created a universal necessity, whose urgent calls occasioned the chartering of the present bank. Thus hastily ushered into existence, with powers heedlessly granted, far more than it was safe or expedient to grant, the bank was raised into successful operation by the elastic nature of public confidence, a wanton abuse of which has been its ruin.

But we are now safe from a like disaster, and the safety is strengthened by our knowledge of the causes of such disasters.

We can now proceed to apply these principles to our legislation. The people always have sustained them, and always will sustain them. The only hindrances are such as may be presented by the skirmishes of a party warfare.

We have had, unfortunately, too much of this already. It has protracted our session and occupied our time to no purpose, except an injurious and angry excitement. Legislative discussions, whose sole object should be the ascertainment of great political truths, have been converted into opportunities for the exhibition of the ingenuity or the passions of the debaters, or for the far less pardonable purpose of deluding the public mind as to the causes which have affected the public interest.

Recent votes have shown that a large majority of this House are weary of such discussions, and are willing to unite upon the measures required by the public interest.

I shall be gratified if the reasons which I have presented, and which, upon careful examination, have convinced my own judgment, shall have the slightest effect in aiding this purpose.

We all desire to make an arrangement which will facilitate the financial operations of the Government and correct our national currency.

Those who believe (and I am one of them) that a United States Bank, properly restricted, would best effect these two objects, will agree with me, that our own differences of opinion, as to the nature and extent of these restrictions, render the organization of it utterly impracticable, and its organization, even if practicable, would be utterly useless during the two years that must intervene before it goes into operation.

The arrangement proposed by the bill is shown to be practicable by former and recent experience. It is the only one that can possibly exist until the present bank charter expires. It binds us to nothing; it is incapable, during that period, of doing any injury; it diminishes central, and increases State influences, and offers a definite mode for the gradual correction of our currency, the common object of all.

Should it prove incompetent, I shall readily join in adopting another system; and in the examination of the present arrangement, and its comparison with the new system, we shall be aided by the experience of the intervening time, and guided by the opinions of our constituents, with which we shall then be fully acquainted.

By adopting this measure we shall quiet the excitement which has extended its baneful influence even to the personal relations of the members of this House; we shall be able to part in cordiality and kindness, and to meet our constituents with the happy consciousness of having faithfully performed the duties which they assigned to us.

When Mr. LANE had taken his seat,

Mr. McVEAN rose and commenced by stating that he desired to call the attention of members to the position the House occupied in relation to the subject-matter then under discussion. We have (said Mr. McV.) passed a resolution declaring that the charter of the Bank of the United States ought not to be renewed; we have passed a resolution declaring that the deposite of the public moneys ought not to be made in the United States Bank; and we have also passed a resolution declaring that provision ought to be made by law to continue the deposite of the public moneys in the State banks. It is in affirmance of, and with a view to carry into effect, the principle advanced in the last resolution, that the bill now under consideration was introduced by the Committee of Ways and Means. Its adoption is opposed by the gentleman from Georgia, [Mr. FOSTER,] and other gentlemen who have this day addressed the House, on the ground that the public moneys were illegally removed from their deposite in the United States Bank.

I shall briefly state the main argument advanced in support of this position, and then endeavor, with equal brevity, to give it an answer. The argument is, that the act of removal originated with the President, whilst the discretionary power of removal was confined to the Secretary of the Treasury, not as a subordinate, but as an independent officer of the Government; that, although, in point of form, the Secretary did the act, it was, in spirit and in truth, the act of the President, who had no right to advise, direct, or control that officer; and the act, not being his, according to the true intent and meaning of the law, is, for that reason alone, reversible. Sir, if these premises were true, I should concur in the conclusion, for I am as far as any person from giving my approval to any measure of Government which rests its claim for that approval on its former accuracy alone. I will, sir, permit an officer of Government, in a court of justice, or in enforcing obedience to his official commands, to show, in his justification, that all the formalities of law have been observed by him. But here, sir, at the bar of this House, or at the bar of public opinion, I will allow no such justification. The act must be right, not only in form, but in substance also. Not only the body must be perfect, but the animating principle also.

The independence of the Secretary of the Treasury is attempted to be maintained, on the assumption that the Treasury Department is not an Executive department; and this assumption, it is said, is proved by the peculiar phraseology of the act establishing the Treasury Department, as well as by the particular mode of expression adopted in the bank charter. The act creating the Treasury Department does not, either in its title or in its body, denominate it an Executive department, in express terms; and in this it differs from some of the acts establishing the the other Executive departments of the Government. From this difference it is argued that Congress intend-

ed, by this most obscure negative implication, to deny to it an executive character. But, sir, how do we arrive at the character of a particular office? From its name, or from the duties belonging to it? Are we not to inquire into the nature of the services required to be performed by it, in assigning to it its character? What are the duties of the office of the Secretary of the Treasury? Are they, in their nature, judicial, legislative, or executive? The answer will determine the classification of the office, and not the title of the act establishing the office. I would respectfully ask of those who place so much importance in names, or rather, in this instance, in the absence of any qualifying name, whether, in their opinion, a clause in the act establishing the State, War, or Navy Departments, declaring, in express terms, that they should *not* be considered Executive departments, would in the least affect their character as such? Or, to go further, suppose the act establishing the Treasury Department was entitled "An act to create a legislative or judicial department, to be denominated the Treasury Department," would that title affect the character of its prescribed duties, or make the functions of the office judicial or legislative? I say it would not, sir; for, although I am willing to admit the potency of a name, I deny that it can either make white black, or black white—a power that seems to be claimed for it in this instance.

It has been found necessary, in the support of this argument, to assert that the Treasury Department is a legislative department, and that the Secretary of the Treasury is the fiscal agent of the Legislature. Let us, for one moment, examine this matter. An agent is a person appointed to execute the will and purposes of his principal. A legislative agent is a person appointed to execute the will and purposes of the Legislature. How does the Legislature give expression to its will and purposes? By the enactment of laws, and by the enactment of laws only. A legislative agent, therefore, is a person appointed to execute the laws of the Legislature. And here, sir, we have arrived at the precise definition of an executive officer, such as the constitution of the United States has declared the President to be. To give the Secretary of the Treasury, as a legislative agent, the power to execute laws independently of the Executive, would not only be a robbery of the powers of the President, but also a usurpation on the part of Congress, and a most flagrant violation of the constitution, which has placed the law-making and the law-executing powers in different hands. The executive authority of this Government is vested exclusively in the President by the constitution, and as well might the President create an agency to make laws as Congress an agency to execute laws, insubordinate to the constitutional Executive. But, sir, it is said, admitting the Secretary of the Treasury to be an executive officer, that, by the act chartering the bank, the power given to him was distinct from that of his office. Independently of the constitutional objections that might be successfully urged against this proposition, I answer, a grant to the Secretary of the Treasury is a grant to the office, and not to the individual. The act does not grant the power to the person who, for the time being, shall be Secretary of the Treasury, but to the Secretary of the Treasury. Instead of its being a new appointment, in reference to an office, it is the en largement of the duties of a pre-existing office.

The error of investing the Secretary of the Treasury with a legislative agency, which has obtained plausibility by the wrongful substitution of terms, has been followed up by other errors of opinion more and more flagrant. I believe, sir, that the gentleman from Georgia [Mr. FOSTER] denies that the Secretary of the Treasury had the power of removing the deposites at all, except in obedience to express instructions received from Congress, his legislative principal. How any person, with the bank charter before him, can make this assertion, is, to me, surprising; for I aver that it is not in the power of human language to reserve power more absolute and unqualified than is done in this grant. There are no directions given for, and no restraints imposed upon, his power of action; he is merely required to report the reasons which induced him to act, after the consummation of the deed.

The very direction as to his subsequent conduct is equivalent to a denial of the position that he is to receive his instructions from Congress previous to his action; for, if Congress be in session, he is directed to report to it immediately his reasons for the removal. What sublime mockery it would be to witness the Secretary reporting the reasons which governed him in the performance of an official act to the very Congress from which he had received instructions to do the very act, and without which instructions he could not have acted at all! It would be giving him the power and the faculties of an automaton, and, at the same time, holding him to the strictest moral accountability!

I have authority for saying that the Secretary of the Treasury is entirely independent of the control of Congress in this matter—authority which no friend of the bank will feel himself at liberty to question. I alluded, sir, to what was said by the honorable member from Pennsylvania, [Mr. BINNEY,] at the commencement of this Congress, the first time the House had the pleasure of listening to him. The question then discussed was the proper reference of the letter of the Secretary of the Treasury, assigning his reasons for the removal of the deposites. That honorable member then stated that the Secretary of the Treasury sustained the relation of umpire between the bank and the Congress. Mark, Mr. Speaker, the relation of umpire. That gentleman is a distinguished lawyer, and he well knows the character of an umpire. It is, sir, that of perfect independence of the parties between whom he is to decide. No stronger figure could be used to show that the Secretary is not the agent of the Congress, and the bank, or of either of them. The honorable member asserted that the Secretary was the umpire, and his decision the award, and that through that award Congress derived its whole power of action over the subject, as an appellate tribunal. That the power in Congress, now to act in this matter, was not an original, but a derivative power, derived from the action of the Secretary, and, consequently, that we were confined in our action to the review of the reasons assigned by the Secretary of the Treasury.

Sir, there is nothing in all the noise we have heard about despotism and usurpation, but the clamor of politicians who are hungering and thirsting after place. There is nothing in any of the measures of the administration, in respect to this whole matter, that cannot find a precedent in all the administrations since the establishment of the Government under the existing constitution. Sir, the powers of this Government in relation to the Congress and Executive are well defined. Congress has absolute as well as plenary power over the revenues and moneys belonging to the Government. It can direct the place where they shall be kept, by whom kept, when removed, and for what purpose removed; but it is, nevertheless, the duty of the President to see that all laws made by Congress respecting them are faithfully executed, and of this power he cannot be divested—he cannot even divest himself of it.

Having, as I humbly conceive, answered the principal argument against the right of removal of the deposites, I will not now trouble the House with any argument as to the expediency of that measure. It is, I believe, admitted by nearly all the members of this House that the State banks must be used as a depository of the public moneys, if the Bank of the United States is not to be rechartered. The gentleman from Illinois, near me, [Mr. DUNCAN,] as a substitute for the bill reported by the Committee of Ways and Means, has offered a bill to recharter the Bank

of the United States as an alternative measure. This opens the whole question for discussion.

The subject of a Bank of the United States is likely to continue to be a topic of paramount political interest. I do not object to its discussion, sir; for it involves not only questions of right and expediency, but also, in the opinion of a large portion of our fellow-citizens, the question of the perpetuity of our republican institutions, according to the spirit of their organization. It is consolatory to the friends of written constitutions and chartered rights, that, notwithstanding the authority of names and the weight of precedents, the same spirit which influenced Jefferson, and other sages and patriots, to resist the first United States Bank, as an encroachment upon the constitution, has survived them, and directs their disciples and followers in their efforts against its continuance at this day. Sir, there is not in the political history of this country a question of disputed political power, which time, or legislative authority by legislative enactment, has not settled, to some considerable extent, except the Bank of the United States. The renewal of the charter of the first Bank of the United States was denied by the casting vote of the Vice President, George Clinton, on the ground that Congress had not the power, by the constitution, to grant such a charter; and this decision, for a time, received the sanction of the public approbation. The renewal of the existing charter of the Bank of the United States was denied in 1832, on constitutional grounds, by the veto of the President of the United States; and the people elected that President, and sent immediately thereafter to this House representatives who, by a solemn vote, and by a majority of fifty-three votes, have decided that the charter of the Bank of the United States ought not to be renewed. When, sir, is this conflict to cease? If the power to charter a bank was merely a doubtful power in the legal sense of the word, the weight which precedent always, in such cases, brings to the scale, would, long ere this, have given the determined preponderance on the side of the exercise of this power. But this is not a doubtful power. There is no warrant in the constitution for its exercise; and the repeated attempts to deduce it from other powers, expressly granted, have but served to show that the footholds of usurpation are on slippery places.

The power to regulate the Territories and other property, the power to borrow money, the power of exclusive jurisdiction over certain localities, the power to levy and collect taxes, and the power to coin money and regulate the value thereof, have, every one of them, in succession, and at different times, been claimed as the main or principal power of which the bank was the incidental creation. But, sir, its friends have changed its paternity so often, and it has become the child of so many fathers, that it is difficult even for them to determine which is its putative father, whilst its illegitimacy stands confessed.

There is no one who will assert that the power to make a corporation, to confer exclusive privileges on individuals, is not an original substantive power. It is one of the highest prerogatives of sovereign power; and to contend that it can be exercised as an incident to other powers, to which, to say the least, it is coequal, is at once to confound and destroy the distinctions which would affix any limitations to the powers of this Government. Sir, the constitution contains an enumeration of the specific substantive powers conferred upon this Government; and so careful were the framers of that instrument that the true character of this Government should be known, that they annexed a prohibitory clause, restraining it from the exercise of all powers not therein specifically granted. The power to grant a bank is not among the enumerated powers; it cannot be found in the instrument. The assertion that we frequently hear, that a bank is constitutional because it is necessary, involves an abandonment of the written guide, to follow the erring dictates of our own poor fallible judgment. Our Government is the first experiment of a written constitution, and upon its fate depends the fate of republican institutions here and elsewhere, now and for ever. We have, then, the highest motives to impel us to a watchful guardianship of its provisions. Sir, if the power in this Government to make a bank is doubtful, the safe course, the course which patriotism would dictate, would be to forbear to exercise the power.

Sir, if this bank were constitutional, I would oppose it still. I would oppose it because it has entirely failed to accomplish the object for which it was designed. In order to ascertain the evil then existing, and the remedy proposed, let us recur to the history of the times when this bank was chartered. I will read a short extract from President Madison's message, advising Congress to charter the present bank; if advice it may be called. "The absence of the precious metals will, it is believed, be a temporary evil; but, until they can be again rendered the general medium of exchange, it devolves on the wisdom of Congress to provide a substitute which shall equally engage the confidence and accommodate the wants of the citizens throughout the Union. If the operation of the State banks cannot produce this result, the probable operation of a national bank will merit consideration." The committee on currency, to whom this message was referred, and who reported the bill which afterwards became a law chartering the present bank, reported that they "had determined that a national bank is the most certain means of restoring to the nation a specie circulation." In these extracts we have it asserted that the evil was the absence of the precious metals, and that the bank was designed to afford a temporary substitute until their return; to regulate the then existing currency, and be the most certain means of restoring to this nation a specie circulation. I put the question, sir, to every friend as well as to every foe of that institution, has it not been most eminently instrumental in defeating the very object it was designed to accomplish? Has it not almost entirely driven specie from the circulation? Has it not brought in, under its influence and management, a paper credit currency, not the representative of but the substitute for specie? In the very nature of things, the more successful the bank has been, as a bank, the more injurious has it been to the currency; for its efficiency in expelling specie has increased in proportion to its ability to supply the substitute.

Sir, I do not pretend that I can give an opinion on these matters, squared or rounded by the technical rules of the science of political economy, but there are a few thoughts which have suggested themselves to my mind, the expression of which I will risk, although they may seem to come in collision with received opinions.

No Bank of the United States can regulate the currency. On the contrary, its inevitable tendency must be to vitiate and destroy the currency. Money is the common standard of value; and its essential quality is, that it possesses intrinsically the same value that it possesses as currency. Gold, silver, and copper coins, are the money of this country, and are the legal currency. The actual currency is bank paper, and a small portion of coin. I do not pretend to say that bank paper, under proper restrictions and limitations, would not afford a safe and convenient currency. But I do say that the fact of its being either safe or convenient depends upon its being, to some considerable extent, the representative of specie. As it has lately been, the vast disproportion between specie and paper currency, (being as one to ten,) negatives the idea of the paper currency being the representative of the metallic currency. Sir, it may be the representative of property; and as such, during times of general prosperity and credit, may answer all the purposes of money. But the very

moment credit fails, that currency fails--for it loses the only quality that gave it currency--credit. Like a false friend, in the hour of prosperity it is ready to meet every want, and to supply every demand, and to administer to our pride by its flattering accommodations. But when the hour of adversity comes, it is gone—it is concealed in the banker's counter, and neither persuasion nor entreaty can draw it forth from its hiding place.

Such, sir, is the currency we now have, under the boasted regulating influence of the United States Bank. That this statement of its effects is true, no one will deny who has watched the history of events for four months past.

A bank cannot regulate banks—a universal paper medium of exchange cannot regulate or give pecuniary value to local bank paper; this office belongs to money alone, and cannot be transferred. The currency afforded by the Bank of the United States is at best representative; and to assign to it the office of regulating local bank paper would be to make the latter not the representative of money, but the representative of a representative.

The agency of the United States Bank in producing the vast disproportion between the paper and specie portions of the currency, is admitted by its friends. The bill introduced into the other branch of the Legislature by a distinguished friend of the bank, [Mr. WEBSTER,] contains amendments involving this admission. The project of another distinguished Senator, the author of the present bank charter, [Mr. CALHOUN,] I understand to be to continue the present bank, as an admitted evil, to cure the evils of currency of its own creation, the same way that fire is employed to extract a burn, and ice to extract frost. I propose a different remedy. It is to restore money to its proper office. Let the United States Bank cease; let gold and silver take the place now attempted to be held by the bank in regulating the currency; and let the States restrain their banks from issuing notes of a less denomination than five dollars, and we shall soon have a safe and sound currency, in place of the present base and ignoble currency.

Sir, had this bank been useful for the purposes for which it was created, I would still oppose its recharter. I would oppose it for its bribery, for its corruptions, and for its general immoral tendencies. The bank has been convicted of expending large sums of money for political purposes. The large amounts expended in printing and distributing speeches of a political character, its friends admit and justify. Other large sums proved to be expended in changing the political opinions of editors of newspapers in New York, Philadelphia, and other places, and turning them from being enemies, loud and bitter in their denunciations of its overwhelming corruptions, to friends, clamorous in its praise, are passed over in silence. The expenditure of $80,000, avowedly for the purpose of putting those in power who were friendly to a renewal of its charter, by expelling those who doubted its utility or its purity, has been attempted to be justified on this floor; yes, sir, on the floor of the American Congress. The bank, sir, has no right to be a party to this controversy. A large portion, perhaps a majority, of the people of the United States, believe it to be of unconstitutional creation.

The remaining portion believe that the power to create it is not among the original powers granted to Congress; but that Congress, believing it to be necessary as an instrument to carry into effect other powers expressly granted, have constructively, from the necessity of the thing, the power to charter the bank as such governmental instrument, and not otherwise. Admitting, then, that the bank has a legal existence, it is exclusively as the agent of the Government that it has such existence. The President of the United States, as the organ of the Government and the constitutional organ of the whole people, has the right, and it is his duty, to declare to them his opinions respecting any agent of Government. And every citizen has a full and perfect right to canvass, to adopt or reject those opinions, and combine his efforts with other citizens of similar opinions, to displace from or continue in power the functionary expressing those opinions. But when it is asked to extend this privilege to the bank, we have a right to say that it must first have the elective franchise extended to it. I deny, sir, and I trust I shall for ever deny, that a mere servant, a creature of the Government, is entitled to participate in the exercise of the high moral and political functions which belong to the citizen, the sovereign citizen alone. When this people want instructions how to discharge their political duties, I trust they will seek them from some other source than the bank, and that, as freemen justly appreciating and justly jealous of their rights, they will spurn every attempt to enlighten their minds from such a quarter, even at the expense of $80,000. Gloss this matter over as you will, the conduct of the bank is indefensible. Neither palliation nor extenuation can destroy the sufficiency of this evidence against the integrity of the bank. If the Congress which granted the bank charter had been assured that, within the time limited for its existence, it would have expended $80,000 in one year, in illuminating the darkened minds of this benighted community, with a view to its recharter, I ask, sir, every member who has read the debates of that day, whether a single vote would have been given in its favor. Its rejection, sir, would have been unanimous—and yet, sir, the deed having been done, there are honorable members in this House who are willing to excuse--nay, to justify it. Either, sir, the tone of moral feeling in this nation must have undergone a change, or crime is far more odious in the prospective than in the commission.

The assertion has been made that prejudice prevails, and opposition is easily excited among the people against the bank. I rejoice, sir, for one, that it is so. When this people can see an institution like the bank expending its thousands of dollars in the purchase of opinions, of presses, and of men, and not be aroused to a proper sense of the danger that surrounds them, the lethargy of death is upon them. When I hear that the people of the United States listen with indifference to the recital of the corruptions of the bank, of its arrogant pretensions, of its contempt of the authority of this House, and its contumelious treatment of the President and other officers of Government; when I hear this, sir, then shall I also be prepared to hear the clanking of chains worn by those who once were freemen.

Sir, my regret is, not that the people have shown themselves too sensitive at this bold attack upon their liberties, but it is that we are not unanimous in its condemnation. The sins of this institution have grown up before us mountain high, and instead of being united as one man to drive the monster from its abiding place in this fair heritage of liberty, we are divided into parties respecting it. Yes, sir, and it is with no pleasure that I repeat it, it has its disciples, its retainers, its partisans and followers, who are not only ready to proclaim its infallibility, but also to sing hosannas in its praise. The chosen people of this age, like the chosen people of antiquity, seem to have a fatal predisposition to idolatry. But, sir, there is consolation in the truth that there is a multitude of free citizens who have not bowed the knee to Baal, and are willing and waiting to destroy the temple of his habitation. And I rejoice, sir, that there are those in this House who have voted favorably to the bank the present session who are sufficiently alive to their rights as citizens and members of this House, to denounce it now for its late contempt of the authority of this House.

I have no disposition, at this stage of the debate, to enumerate, much less to discuss, the many powerful objections that have been urged against the expediency of

rechartering the United States Bank. Most of those objections have been already argued before the proper tribunal, at the last presidential election, and decided upon. But, sir, there is a topic of subsequent and recent origin, which, in my humble opinion, has an important bearing on the question of the renewal of the charter. I allude, sir, to the late embarrassed state of the currency. It is of the last importance that the cause of the late deranged state of the currency, and consequent prostration of credit, should be known. In the midst of profound peace, and the most extended general prosperity; at a time when the three great departments of social industry, agriculture, commerce and manufactures, were flourishing almost beyond a parallel; when the balances of trade and exchange were in our country's favor; when we had met with no accident "by field or flood," creating a diminution of that capital which is the basis of our currency; at such a time, and under such circumstances, we found credit broken down and destroyed, and distress and ruin following. I repeat, sir, the important inquiry is, what was the cause of this calamity? I believe, sir, that none of the friends of the bank in this House have so far risked their reputation for common sense as to assert that it was a consequence legitimately or directly flowing from the act of the removal of the deposites; on the contrary, with candor that is creditable to them, they have repeatedly admitted, on this floor, that the removal of eight millions of dollars from their deposite one side of Chesnut street to the other, could not affect the currency or produce any sensible change in the money system of the country. The allegation is, that the removal of the deposites was indicative of the determination of the administration to destroy the bank; and that the public credit was shaken, not from any immediate consequence of the removal, or from any anticipated ultimate effect of that measure; but, sir, from the fact that it was evidence of the disposition of Government not to permit the charter to be renewed.

I rejoice, sir, that all the arguments that have been introduced against the removal and in favor of the restoration of the deposites, in the connexion of these measures with the prevailing distress, have had reference to the question of the renewal of the charter solely, and thus presenting the true question of bank or no bank. I am, nevertheless, constrained to say, from all the lights shed upon this subject, that those arguments are more pertinent to the true issue than weighty to establish the issue on the part of those advancing them.

It is a fair argument that no real cause existed, independent of the bank, for this failure of credit, when it is asserted that this failure has been caused by the prospective destruction of the bank, to which the removal of the deposites is supposed to be the prelude. The argument is, that, although the removal of the deposites did not lessen the amount of the capital, which is the basis of the issues forming the currency of the country, and therefore was not, in itself, the necessary cause of the curtailment of those issues—yet, in the midst of the most extended commercial prosperity, there is a general disruption of currency and of credit, arising from an event which strongly proves that the charter of the bank will not be renewed. I deny, sir, that it is possible, in the midst of such prosperity, in the absence of real causes, to create a panic, that is to be at once the cause and the effect of its own existence. Our people are too wise to believe that their fate is indissolubly interwoven with that of the bank, and too prudent to borrow trouble in advance. I repeat, sir, that when the friends of the bank assign as cause for the prevailing distress that which is wholly insufficient, it is strong presumptive proof that the fault is with the bank. But we have also other proof; the bank has lessened its discounts—its millions here, and its million at this branch and at that, and where it was most necessary to have its power felt. The screws of that institution are not only powerful, but the chief engineer who turns those screws understands thoroughly the time and place for their most effective application. To this real existing cause, and that of cash duties paid under the new revenue laws, add the unfounded alarm that has been created, and we have the true causes of the hardness of the times. This unfounded alarm was also chiefly the work of the bank. In proof of this assertion, I have only to point to the individuals who are most industriously engaged in sounding the trumpet of alarm in the Atlantic cities. Who are they, sir? The detected purchased instruments of 1832. The bribed agents of the bank. I have no disposition, in an argument, to call hard names; neither do I feel a disposition to call things by any other than their right names; and I do, therefore, repeat, they are the bribed agents of the bank who have raised the cry of distress. Look to New York, and who are they that decried the State banks, and labored assiduously and insidiously to destroy their credit, the local, the general credit? They are those, sir, who have been proved to have "the facility" of conversion from one faith to another in the twinkling of an eye, under the influence of the "facilities" furnished from the breeches pocket of Nicholas Biddle.

This House has contributed, in some degree, in increasing and extending the alarm; and it may not be uninteresting to take a short review of our proceedings, in their connexion with this subject. At the commencement of the present session of Congress, we were told, from a certain quarter of this House, that action, immediate action, was indispensably necessary to the welfare of our country. So urgent was the necessity for action, that this matter could not even brook the ordinary delay of being sent to one of the standing committtees of this House.

I came here, sir, at the commencement of this session, a novice in legislation; and, I must say that I have increased in the knowledge of legislation, if not in legislative wisdom. I have seen gentlemen, when this question was first broached, more than six months ago, rise up in their places and portray, in living colors, the ruin and distress that would follow a delay of the settlement of this question. They even deprecated discussion, and urged the necessity of settling the question in some way, and it was not very material in which, to avoid the panic that its agitation was calculated to produce. I have, sir, seen those very gentlemen who cried the longest and loudest, as "the harbingers of ill and the prophets of wo," the most conspicious instruments in the verification of their own predictions. The cry was "peace! peace! when there was no peace." In the simplicity of our hearts, we listened to their admonitions, and took counsel from their warnings; and many of us gave an earnest of our belief in their sincerity, by twice voting to sustain the proceeding provided by the rules of this House to bring discussions to a close—the previous question. We failed in sustaining that measure, and we failed through the votes of those who told us that our country's salvation depended upon our doing as we did. They, sir, pointed out the way for us to rescue our country; and then, from patriotic motives, no doubt, took the opposite direction. That is not all—we were denounced for following the course indicated by themselves; and a gentleman before me lectured us in good round set phrase for so doing; and thanked his God, in a vein of piety which I trust is usual to him, that that which he was pleased to denominate a gag-law was not sustained by this House! The result has been, that "agitation, agitation," has been the standing and special order of the day in both Houses of Congress, since the commencement of the session; and the bank has had ample room to give this people the practical demonstration of its power. Blind, indeed, sir, must be the eyes that do not now see a power among us, which, although it may be of legislative creation, has become a foreigner, an alien enemy, in our midst; which has placed itself in hostile attitude

against this Government, exercising belligerent rights after the manner of a nation, against the sources of the wealth of this country; issuing its Berlin and Milan, its Chesnut and Wall street decrees, and imposing its embargo upon the commerce of the country—in retaliation; no, sir, that is not the word—in stern self-defence, against the assualts and the insults of Government! Where, sir, are the champions of freedom, whose voices were wont to fill this hall, and make it resound with the inspirations of their eloquence, when the least encroachment was attempted or made against those inestimable rights upon which our glorious Revolution was predicated? Who, heretofore, could snuff the vicious principle in the tainted breeze, and denounce, eloquently denounce, its least approach? Where are they, sir, when this political monster has boldly walked forth, and proclaimed itself the avenger of its own wrongs; warring against and prostrating the industry of the country; drying up the sources of its wealth, and insolently demanding its renewed existence as the price of its forbearance? Where are those voices, sir? They are silent; or what is infinitely worse, lifted loud in exultation that the President has, at length, found an enemy, whose "towering adamantine strength" is sufficient to grapple with him; an enemy which holds in defiance "the principalities and powers" ordained by this people for their preservation.

Sir, when I came here to discharge the duties of a member of this House, about two months after the removal of the deposites, I passed through the three principal Atlantic cities, New York, Philadelphia, and Baltimore, and every thing indicated prosperity. There was no distress, no panic, no forebodings of evil, to cast its gloom over the fair face of commercial industry; all was bright and happy. I came here and I heard in these halls that, in those cities, all was gloom and despondency, and from that time forth groans of distress were daily issued from this place. Editors of newspapers in New York advised every man who had a bill on a local bank to present it for payment. The grand preconcerted scheme of panic at length succeeded. Sir, as evidence of the truth of what I have now stated, I will mention that I carried with me to this place bills of the Montgomery County Bank, (the county which I represent,) in the interior of the State of New York, and for more than a month after my arrival here I passed them without any question being asked; but, sir, so soon as the scheme of panic and distress began to operate, the bills of the best banks in the city of New York were discredited and could not be passed. Sir, if all this had been occasioned by the removal of the deposites, the effect would have followed the cause. The effect, sir, in this instance, as in all others, did follow the proper cause, and what that is I have already stated.

I shall pursue this subject no further. The day of passion will soon have passed away, and the madness of party will soon have subsided. The veil of deception, which aspiring men have thrown around this matter, will then have been removed. Sir, how can they then hold up their faces in the presence of an insulted community? Will it be any apology that these men were in the pursuit of objects of personal ambition? Will their miserable scramblings for office constitute an atonement for the distress they brought upon their fellow-citizens? No, sir, it will be the just cause of their condemnation. The country is again prospering, but this prosperity is to them as the light, they cannot bear it, for they prefer darkness rather than light.

When Mr. McVEAN had finished,

Mr. DUNCAN rose to support his amendment with great reluctance, at a moment when members were preparing for their journeys home, and was more embarrassed, as it was apparent to him, from many circumstances, that a majority of Congress was not disposed, at this late period of the session, to consider any plan for the permanent regulation of the currency.

He inferred this from the impatience evinced, and the inattention to the several speeches just made, and the fact that several gentlemen who were in favor of, and intended originally to support, his amendment, had shown a disposition to-day in their speeches to support or to permit the passage of the bill reported by the Committee of Ways and Means, and to sustain the policy, or experiment, as it was called, of employing the State banks as the fiscal agents of the Government.

He knew that there were, after to-day, but three days more on which bills of this House could be acted on, and that it was almost impossible to mature a plan for the settlement of this great question; but he felt bound to submit, and give an explanation, which, he said, should be very brief, of his plan of a national bank, which, although it was a renewal of the old charter, contained such modifications, limitations, and changes in the stockholders, that it might almost be considered a new corporation.

He had retained all the features of the present institution which had attained character for usefulness and credit, and placed such guards around it as would, according to his view, effectually prevent all the mischief and evils which its opponents appear to dread from it, and about which so much clamor had been made; but whether justly or not, he would not pretend to say, nor did he care. He had seen conduct on the part of the bank directors, although it might have been, and probably was, without any improper design upon their part, which had met his disapprobation, and he had never failed to express it. He was governed by no feelings either favorable or unfavorable to the present bank or its directors, in bringing forward this bill; he had no personal acquaintance with any of them; he did not owe the bank; he had not a cent of interest in it; nor was any one of his friends, so far as he knew, in the slightest degree interested in it. He could not be charged with having any political object in view in introducing his amendment; he believed every member of the House would acquit him of such a charge; he was governed by no such motives; his object was now, as it had been on all occasions, when called upon to act in that House, to do the best for his constituents and country, according to his judgment, without reference to party. He had taken part, it was true, in some of the political struggles in the country, and would probably do so again, but his conduct, as a Representative, never had been, and never should be, governed by any such considerations. He cared less for who was in power than for the manner in which it was used by those in whose hands it was placed; he had never asked or received a favor of the Government, and never would while he was honored with a seat in Congress.

He was opposed to any plan making the State or local banks the treasury of the nation; it could answer no good purpose. The million and a half of dollars of broken local bank notes now lying useless in the treasury, with the numerous banks which are daily breaking or stopping payment, had taught him that they were unsafe, and experience convinced him they were wholly incompetent to answer the purposes of Government as fiscal agents; but, admitting them to be safe, who does not know that they cannot furnish a sound and uniform currency? He was alarmed at the array of local banks springing into existence in several of the States last winter, after the removal of the deposites, and when the downfall of the United States Bank was considered probable. It reminded him of the host of spurious banks which rose up, like mushrooms, in a night, after the winding up of the old Bank of the United States. From 1812 to 1818, he said, the country was literally inundated with their paper, until the best judges of that day could not tell a good note from a

bad one, or whether the bank had a location in fact or only in the imagination, as very many of them were the production of speculators on the public credulity. Hundreds, nay, thousands of poor men were swindled, and suffered much then from the dreadful derangement of the currency, and he was greatly surprised, after so much experience, and with such an example before us, to see so large a party in this country, and in that House, disposed to place the currency in the same fearful situation. He knew the evils too well to give such a measure any support.

But, sir, said Mr. D., if the United States Bank is put down, the embarrassment to the West will be twofold. Their sales of produce are made in the South, at New Orleans, where specie, which is too cumbersome to carry, or the local currency, must be taken in payment, and their purchases are made in the North. Thus subjected to a double discount upon their money, it must fall heavily upon the products of the country. But this is not all. The large cities contain all or nearly all the capital employed in carrying on commerce, and they will receive no note of the West except at a very heavy discount. This was the case in the days of unsound currency previously mentioned, and would certainly be the case again. But, sir, said Mr. D., the evil does not stop here. While there is no uniformity or confidence in the currency, people can neither travel nor emigrate to the West. No man will venture to sell his property in one of the old States for local bank notes, and start to the West, uncertain how soon the bank would break, or being certain, as he would be, that he must change his money with a broker at the line of each State through which he was to pass. Such a condition of affairs must retard the settlement and improvement of all the new States again, as it did from 1819 to 1826, a period of the greatest embarrassment he ever knew, and which was occasioned by the previous deranged state of the currency. The general confusion which, in his opinion, would certainly grow out of the proposed destruction of the United States Bank, presented to his mind a fearful picture of the future condition of the country.

Mr. D. regretted that the chairman of the Committee of Ways and Means had not called up his bill at an earlier day, so that more time might have been given to consider his amendment, or to mature some plan for a national bank; for he believed this to be the most favorable time that ever would occur for the settlement of such a question.

He said some such measure as his was necessary to give relief to the country from the pressure now felt, and which must, in his opinion, inevitably increase, if the present bank should be compelled to wind up and collect in its fifty-four millions of dollars of outstanding debts. No new bank, he said, can be created until after March, 1836, and, of course, more than two years must elapse before a substitute can be put into operation. This was one of the reasons why he preferred to recharter, under proper restrictions, the present bank; but this was far from being the only one: his bill proposed to distribute nearly two-thirds of the stock among the States, and he knew, by observation, that the high credit of this bank would secure to the stockholders a larger dividend and more certain profit upon their capital, than any new bank, with a prudent charter, could possibly do; and, by making the States interested, additional stability and character would be given to this institution.

This bank was in full and successful operation, and generally under the direction of able and experienced financiers, and was managed by well-tried, efficient, and faithful officers. It had gone through the trial which most banks experience in commencing business; it had regained its losses, which were very great at first, for want of experience in the officers, and had established an unrivalled credit all over the world; and the difference between the four per cent. stock to be subscribed by each State and the seven per cent. of dividend, would add to the funds of his own and all the other States, in place of filling the coffers of the individual capitalist. Mr. D. said it was urged as an objection that it had interfered in elections; if so, such conduct met his most decided disapprobation, and he had endeavored, by a provision in his amendment, to guard effectually against the exercise of such a power in future. Another objection which had been urged was, that this bank was a dangerous monopoly, tending to create distinctions in the country by concentrating wealth in the hands of a few men. In this objection he fully concurred, and had effectually guarded against it in his bill by giving most of the stock to the States, so that every citizen, however poor, would participate in its benefits. Another objection, he said, which had been urged against the recharter of the present institution, was the charge made by the committee appointed by the House of Representatives to investigate their affairs, that the bank directors had disregarded the authority of Congress, and had refused to permit the committee to have the use of their books, or to make such an investigation as they wished. He felt no disposition to enter into an investigation of the dispute or contest about the technical distinctions between the committee of Congress and the bank directors. He was of opinion that Congress should have the most unlimited power to investigate all the books, accounts, and official acts of the bank and its offcers, and had endeavored, by a provision in his amendment, to secure that right in the fullest extent, and punish any officer or director of the bank who should oppose such an investigation. But, sir, said Mr. D., suppose all the dangers to exist, and the abuses, as alleged, to be true, was this an argument against the value and importance of the bank? What created being or institution, he asked, had ever existed, that was capable of doing much good, that was not also capable of doing great harm? Was it not the persons selected for the management of the bank, and not the bank itself, that had given such offence? If its officers had acted improperly, they could be displaced; it was to his mind no argument against any institution, and especially to one that had performed so many important services for the Government—an institution which was in fact the treasury, and the best possible treasury that could be established--an institution which kept the public money safely, paid it out on the order of the Treasurer, without risk or charge, at any point required; which had paid a bonus to the United States of one million five hundred thousand dollars, and by his bill was to pay two millions more for the use of the public deposites and the benefits of the charter. He asked, has it not done more than all this for the country, in furnishing the best currency in the world, better than gold or silver, for all commercial purposes, its notes being preferred in most cases, and especially in large sums, to either? Had it not extended the commerce of the country beyond all conception, by furnishing the means of carrying on and enlarging trade? Built our steamboats, which, in proportion as they gave facility and cheapness of transportation, had increased the value of the products in the West? He would not say that all of the prosperity which had recently spread over and blessed every portion of the great valley of the West was owing to the means furnished by this bank for the improvement of the country and carrying on commerce, or to the uniform and sound currency it had supplied; but much, very much, of it was.

But, sir, said Mr. D., if the alleged misconduct of some few of the officers be a sound argument against the bank itself, why not apply the same to the other departments of Government? Does any one seriously think of abolishing the Post Office Department, in consequence of the

abuses charged to exist there? The officers, in its management, had been charged by a committee of the Senate, after a laborious investigation, with squandering the people's money for electioneering purposes; with gross violation of the constitution and laws of the country, in borrowing near half a million of dollars (as admitted by all on the committee) without the color of authority, and various other abuses and general mismanagement, which had involved the Government in a heavy debt; yet there is no recommendation to arrest its useful operations, or destroy the establishment, in consequence of these alleged abuses, which, if true, furnish an example, if not checked, a thousand times more dangerous to liberty than a hundred banks, with the most vicious managers.

It is the duty of wise legislators, he said, to preserve the Government pure in all its parts, and, as experience pointed out defects or abuses, to rectify them, and guard, by timely checks and limitations, against their recurrence, and by every possible means to keep the political and moneyed institutions as distinct as possible.

He regarded the Bank or a Bank of the United States as intimately connected with, and in fact a branch of the Government; though but remotely under its control, it was almost as valuable, in the performance of its peculiar functions, as any other department, and more intimately connected with all the wants and interests of society. But being an institution that required the jealous care and support of the National Legislature, it should have nothing to do with politics or political partisans; nor should they, under any circumstances, be permitted to control or molest it while acting within its proper sphere. The political wheel, he said, was in motion, and no one could tell what party may be placed in power by its next revolution. If the party favorable to the present bank shall succeed, they, like most parties elected on a particular question, may recharter it without those wholesome guards and checks which experience has shown to be necessary. On the other hand, if another party rises into power, much is to be feared from the establishment of a political bank, managed by and subservient to the ambitious views of Government officers—a power more to be dreaded than the brandished sword of a tyrant. The one warns you of danger to come, while the other embraces but to corrupt and subdue.

The present he thought a most auspicious moment for settling this great question. The parties were nearly balanced, and nothing could be done by either except by the consent of the other on the principles of a compromise. He appealed to the patriotism of both parties to settle this important question of the currency without reference to former prejudices. It should have nothing to do, he said, with politics; and now, before the candidates for the presidency were brought out, he thought a bank might be established on such a basis as to secure the confidence and good will of every party and every citizen in the country. He would not appeal to that portion of the House who had constitutional scruples on the power of Congress to create a bank: they, however, constituted but a very small portion of the body. Three-fourths of all the members who had expressed an opinion, and it was believed more than four-fifths of Congress, were in favor of a bank, and he called upon them to sacrifice their prejudices and party feelings, and join him in adjusting this much-vexed question now. He had carefully reviewed all the opinions of the President, and believed his bill or amendment met and obviated all his objections to the present bank charter, and could not doubt, should the amendment pass, it would meet with his approval. This, however, to him was a secondary consideration; he had discharged his duty according to his best judgment, and would leave other public servants to do the same.

After Mr. DUNCAN had concluded,

Mr. STEWART observed that, in the protracted debate which had occupied the attention of the House, on this subject, during most of the session, he had taken no part. From the first he was satisfied that, owing to the opposite opinions entertained by the President and Congress, nothing could be done for the relief of the country. The President had vetoed, at a former session, the recharter of the present bank, and had since declared that, upon no terms would he ever consent to its recharter: and from this ground, we all know, he will never recede. Thus, the fate of the bank is sealed. On a recent vote in this House there was a majority of fifty-two against its recharter in any form, and this majority has no doubt been increased by the refusal of the bank to submit to the investigation required by a resolution of this House. For his own part, he had not prejudged the question of a recharter; he had reserved his vote until he should see the evidence which the proposed investigation might elicit, and while this was refused by the bank, if called on, without this information, to vote, he should unhesitatingly vote against it. But he contended that, under the existing state of things, a national bank, with such restrictions on its powers and capital as experience might suggest, was indispensable. The Government could not get along without it. It was now alike demanded by all the great interests of the country. It was indispensable as a fiscal agent in the collection and disbursement of the public revenue, and in the transaction of the diversified and increasing commercial interests of this great and growing republic. Such an institution was also required to preserve a sound and uniform currency, by checking the extravagant issues of State banks, and to restrain their natural tendency to multiply and inundate the country with a worthless and depreciated currency. On this subject, the experience of the country in the five years that intervened between the expiration of the charter of the old United States Bank in 1811, and the chartering of the present bank in 1816, taught every one a lesson that could not be forgotten. How many hundred worthless swindling banks had sprung into existence in this brief period? How many millions were lost by the Government and by individuals while these State banks were uncontrolled by a national institution? Such was the derangement and depreciation of the currency, that Mr. Dallas, then Secretary of the Treasury, informed Congress, in an official communication, that the State banks had proved "utterly inadequate to the collection and transfer of the public funds;" and that the financial affairs of the Government imperiously required that "Congress, in its wisdom, should effectually provide for the restoration of a uniform national currency." The present bank was accordingly established, and its effect in restoring the currency, and in facilitating the collection and disbursement of the revenue, was known to all. The currency was soon restored to a sound condition, and not one cent had been lost in the collection and disbursement of 450 millions of revenue by the United States Bank. The same evils and the same difficulties, then experienced, will recur again. They are, in fact, already felt; and we shall soon be again told, by Mr. Secretary of the Treasury, that the experiment of employing "State banks to collect and transfer the public funds has failed," and that "Congress, in its wisdom, must provide for the restoration of a uniform national currency." He was opposed to banks, and always had been; and this very opposition furnished his strongest motive to favor a national bank. It was the only instrument this Government could employ to check and restrain the increasing of State banks to a most ruinous extent. Destroy this bank, and refuse to create another, and what is then to restrain State banks? Will they not run wild, as in 1815–'16? Has not the mischief already commenced? More than fifty new State banks, some of very large capital, have been incorporated since the commencement of this session, and

the work is still going rapidly on; and how can you restrain it? Gentlemen talk of gold and silver, of specie currency, while they are adopting the very plan to destroy it. Those who wish to expel specie, and again flood the country with depreciated paper, should go for this "experiment;" they will be sure to accomplish it. The idea of specie currency is absurd; you might as well talk of restoring specie currency in France or England as in Pennsylvania or New York. You have just as much power to restrain the incorporation of banks there as here. The Secretary of the Treasury does not dream of restoring specie; he does not desire it; he tells you so, in so many words, that we have not bank paper enough; his plan is to substitute State bank currency for United States Bank currency. He says, in his late letter to Congress, that it is not the object of Government to dispense with bank paper; it cannot be dispensed with; that no "commercial or manufacturing community can dispense with a liberal system of credits and loans;" and this can only be attained by "a paper circulation founded on credit;" and he further says that the amount of paper now in circulation is not as great as is required; that the States cannot be controlled in the creation of banks by Congress; and that they will not, and ought not, to surrender their right to do so. How absurd is it then to talk of restoring specie by destroying the United States Bank. This is the very plan to expel specie. When the United States Bank was destroyed, and State banks substituted, specie disappeared, and spurious bank notes took its place. Specie was hoarded, or went abroad. So it will be again. Destroying the national bank to expel paper money was like killing the cat to keep away the mice. The national bank was the only check on State institutions. We have now 450 State banks, with nearly 200 millions of capital; destroy the national bank, and the number may soon be doubled, as in 1815-'16.

This experiment had been tried, had failed, and would fail again. This bill provided no new security for the public money. It gave to Congress no supervision or control over these State banks; it could give none. It secured to the people not one cent of compensation from these favored banks, for the perpetual deposite and use of at least seven millions (the ordinary surplus) of public money to discount on. It imposed no restraints as to their issues; it did not require them to receive the notes of each other, or to pay in par paper; it leaves the deposites precisely where they now are, and as they now are; it did nothing but transfer the responsibility of this measure from the Executive and his Secretary to Congress; so that, if loss or misfortune occurred, the censure would rest upon Congress. He maintained, therefore, that to legislate would destroy the only security the people now had for the safe-keeping of the public money, to wit: the executive responsibility. While he is responsible, care will be taken, as far as possible, to prevent loss. He took "the responsibility," and is, of course, now bound by every obligation of interest and duty, to see to the safety of the public funds. But remove this responsibility, let Congress assume it by passing this bill, and where is your security? It is gone, it is destroyed. The public money is given to the four winds; you have no security left. This alone would be sufficient to influence his vote against the proposed measure. But he could, under no circumstances, be induced to sanction a measure which he so much disapproved in its origin, and dreaded in its consequences. The public money was perfectly safe, as all admitted, in the Bank of the United States, where the law had placed it, and where it would have remained safe, and the conntry remained tranquil and undisturbed until the expiration of the charter of the bank in 1836, when the deposites would have been safely transferred to such other depository as Congress in the mean time might have provided.

Mr. S. expressed the opinion that this measure never originated with General Jackson or his disinterested and sincere friends. He had vetoed the bank, he had given it its death-blow; but it was not in his nature to rob the dead; it was not characteristic of a brave and magnanimous soldier, as all admitted General Jackson to be. No; it was the cunning contrivance of ambitious men, seeking their own elevation at the expense of the fame, the peace, and happiness of the President, and the best interests of their country. It was a measure adopted contrary to the advice of all his Secretaries at the time; and he affirmed that, in all his conversations, public and private, with the friends of the President in both Houses of Congress, he never met with one who approved of the removal of the deposites at the time it occurred. He had heard no man on this floor say that he would have advised the adoption of this measure at the time; but as it has been adopted, they were compelled, from a political necessity, to "make the best of a bad bargain." The step had been taken, and it could not be retraced. To turn back was worse than to go on. Who, then, advised this unfortunate measure? Look to the time, place, and circumstances, to its objects and its motives, and the reply could not be doubtful. Was it recommended by any of the Secretaries? No; they all opposed it at the time it was adopted. The Secretary of State, of the Treasury, of War, of the Navy, not one of them recommended the adoption of this measure before the meeting of Congress. The best and most enlightened friends of the President opposed it. They foresaw and foretold its consequences; but secret, selfish, and irresponsible councils, by fawning and flattery, unfortunately for the President and the country, prevailed. I hesitate not to declare, said, Mr. S., what I firmly believe, and what will meet with a response, if I mistake not, from a majority of the President's best friends on this floor, that, if General Jackson had an enemy who wished to destroy his popularity, his fame, and his happiness—who wished to prostrate his friends and strengthen his opponents, that enemy could not have devised a better plan for accomplishing his purposes than this very measure. Look at the state of the President's popularity, and the condition of the country, before this measure was adopted, and look at them now. But for this measure, and there would now have been no opposition to General Jackson, except a few southern nullifiers, and their numbers would have been so small that they would have soon sunk into silence; and General Jackson might have gone out of the executive chair one of the most popular Presidents that ever went into it. Opposition had every where ceased. When on his journey through the Northern States, where the opposition had been strongest, he was every where received with acclamations by all parties. All parties were flocking around him, and vying with each other in expressions of confidence and respect. There was likely to be but one party in the country; party conflicts were about to cease; and men were to be distinguished, not by their devotion to men and names, but by acts of patriotism and of substantial public service. But this was destruction to the hopes of a certain political aspirant, who could live and breathe alone in the midst of the fire and smoke of party excitement; who saw clearly, that if party lines were obliterated, if other men came into favor with the President, and he ceased to be the exclusive friend of General Jackson, then there would "be an end to all his greatness." He saw that other men were fast acquiring favor and confidence at court; a distinguished Senator from Massachusetts was regarded with jealousy and apprehension; something must be done to drive him and his friends from the President, as was, on a similar occasion, another distinguished Senator from South Carolina, who was supposed to stand in the way of a certain other distinguished aspirant to the succession. A quarrel was

brought about in this case, as it was in that. How was it to be accomplished? It could only be done by inducing the President to do some act that would drive these men from him, force them into opposition, and thereby give the President again to the exclusive control of these false and insidious friends. General Jackson might take the blows in the battle which might ensue, and he appropriate the "spoils of victory," should a victory be achieved. No one who will look to the time, the circumstances, and the motives of this measure, can for a moment doubt its origin and object. Where and when was the letter ordering the removal of the deposites signed by the President? It was done when absent from his constitutional advisers: in the city of Boston, whilst confined to a sick room, with none but a few of the interested near him, just before the meeting of Congress, at the moment when he was receiving the most flattering manifestations of confidence from all parties, and when the indications of a general if not universal support by all parties, for the balance of his term, were no longer equivocal. This was the danger, and hence the alarm. Some decisive and immediate movement, to counteract this result, must be made. It was therefore determined, against the opinion of all the heads of Departments, before the meeting of Congress, to adopt this measure, so uncalled-for and so injurious. The motives of this measure were obvious: they were not such as could have influenced General Jackson, but might well influence one who wished to restore party, and ride on it into power. What were the objects to be accomplished by this premature removal of the deposites from where the law had placed them, and where Congress, at the close of its last session, by a vote of more than two to one, had declared they were safe and should remain? The objects and ends of this measure were these:

1. It would force from General Jackson many men who were coming into favor, and who were regarded with jealousy; it would restore party lines and party feelings, so indispensable to the success of a certain aspirant, and give him again the exclusive control of the President and his followers.

2. It would also give him the control of the money as well as the patronage of the Government, by which to purchase the mercenary, seduce the ambitious, and corrupt the venal and profligate portion of the community.

3. It would retain about fifteen millions of dollars now collected in New York, in that city, to sustain the safety-fund banks, instead of sending it to the United States Bank at Philadelphia.

4. This blow at the bank might, it was supposed, recover some of the popularity in the South which had been lost by the proclamation.

5. It would divert the attention of the people from the true and great points, the merits, qualifications, and public services of men, and fix it on a false issue between a popular President and an unpopular bank.

6. It would destroy one bank, supposed to be unfavorable, and establish some fifty or a hundred others as depositories of the public funds, with a perfect command and control of their political action, as was exerted over the safety-fund banks of New York.

Examine these motives and objects, not one of them could influence the course of General Jackson, if left free and uncontrolled by that magical spell which seemed to impel him, against the advice of all his cabinet, to the adoption of measures destructive alike to his friends, his fame, and his happiness. Who has this measure benefited? It has benefited the bank, increased its friends, and may revive its hopes of a recharter before extinguished. It has united the opposition, impossible without it, strengthened the opponents of the President, and made enemies of thousands who would have otherwise remained his friends; and who has it injured?

It has sacrificed the poor to the rich; the debtor to the creditor; the merchant to the bank; the borrower to the lender. The miser and the stockjobber, who now lend at fourfold interest, and speculate and feast on the miseries and misfortunes of mankind, are alone benefited by this unfortunate experiment. It has, all admit, prostrated many of the President's friends here and elsewhere; especially those elected by small majorities. The political changes it has produced are all one way. It has drawn down the curses of thousands, who have been ruined by it, on the President; and their curses, instead of their blessings, will follow him into retirement, and mar his peace and happiness forever. And why and wherefore all this mischief? Why remove the deposites from where they were safe, and place them, without the authority of law or the concurrence of Congress, where they are less secure, and less accessible for the public service? Was it to promote any interested view of the President? No. But to promote the ambitious views of one who aspires to the succession, and who will reach it, if he must, over the ruins of his country.

Mr. S. said he had not intended to have said so much when he rose. He felt it his duty, however, to express distinctly his opinions as to the origin and purposes of this measure, which had occupied so much time, and produced, here and every where, so much excitement, and so much mischief. Its great object, he repeated, on the part of its real authors, (not the President,) was to prevent a political millennium, and apprehended political calm, so fatal to the hopes of a certain political aspirant, whose ship was at sea, freighted with the presidency, and a wind must be created to carry her into port; and the only danger now was, that, in raising a wind, the magician has excited a storm which will dash his vessel on the rocks, and sink it, with all his hopes, to the bottom of the ocean. The object was to produce a battle in which General Jackson was to take the blows, and another the benefits of victory. It was, as Mr. Duane was told, "a flag to rally the party by," run up to promote the objects of party, not of the country; to create a party warfare for the presidency, and the people's money taken to carry it on.

For one, he was not prepared to rally under this banner, nor under that of any of those who were active in promoting the party conflicts of the day. He hoped some honest and independent man could be found to take the helm, who would sooth and assuage the angry passions of party, and restore our distressed country to a condition of peace and tranquillity. He believed that the integrity of the Union was more endangered by the angry conflicts of party than from any other cause, or from all other causes combined. It was, therefore, the part of patriotism to sooth, rather than excite, those dangerous conflicts which weakened, and might ultimately sunder, the bonds of our happy Union.

For some years past, party spirit had taken a new and dangerous direction--parties were no longer organized with reference to measures and principles, but with reference to men and geographical lines; parties now take the names of their leaders, and follow their fortunes and obey their orders; one thing to-day, and the opposite to-morrow. To this subservient and slavish spirit, the most valuable and important interests of the country have been sacrificed. Has not the tariff, so intimately connected with the national prosperity, been sacrificed and destroyed, by connecting it with the party politics of the day? It has been made the sport and the victim of party. So of internal improvements, another great and valuable branch of the national policy; this has also been sacrificed by the same causes. And what but the spirit of party, and electioneering for the presidency, has now involved the country in the gloom, embarrassment, and dismay, that surround us, and threaten to involve the national currency in disorder and ruin. Has it not sprung out of

the conflicts of party, and is it not emphatically a party measure? The bank, we are told, has connected itself with party politics, and must therefore be put down. Who will doubt that, if the tariff and internal improvements had found favor with the dominant party, they would now have been triumphant? But, unfortunately for the country, their cause was espoused by men who were not strong enough to carry them through, and the men and the measures had fallen together. And who will doubt that, if to-morrow these measures were taken up by those in power, they would again rise triumphant, and elevate the country to a condition of unexampled prosperity and power? In 1832, under the late tariff, the surplus revenue applied to the national debt amounted to more than $18,000,000. That debt is now paid, and had the tariff remained, we would now have $18,000,000, paid by foreigners for the privilege of importing their goods into our markets, to divide among the States to promote a system of general education and internal improvement. What would $18,000,000 not accomplish in a few years in the mental, moral, and physical improvement of our country, which constitutes, after all, the only true cement of our national Union; while ignorance and vice will be found to contain the seeds of its dissolution. The most fatal measure to the prosperity of this country was, in his opinion, the late revision of the tariff called the "compromise bill." This bill, if not soon repealed, will lay the axe to the root of the national prosperity. Agriculture, manufactures, and commerce, will sink together under its withering influence. It was worse than the administration project of reducing every thing to twenty per cent. at once. This carried its remedy with it. The country could not, and would not, have submitted to it for a single year; but this bill brings us to the same result in ten years from its passage, and the destruction will be the more complete and fatal for being protracted. This bill is, throughout, an inversion of every principle of sound tariff policy. The true tariff principle is to select the articles we can and ought to manufacture, and impose a gradually-increasing duty, so as to invite the investment of capital, and finally to exclude the foreigner when the domestic competition has supplied the home demand, leaving the country to depend for its revenue on the duties levied on luxuries imported and consumed principally by the rich. But this bill is just the reverse of this; it exempts all the luxuries of life from the payment of any duty, and throws the country for its revenue entirely on the importation of the necessaries of life; which, according to true tariff principles, ought to be manufactured at home. According to this bill, we are compelled for ever to import our woollens, iron, &c. from Europe, or have no revenue at all, as these articles now pay the whole revenue; and, to keep it up, the importations must increase as the duties decline. This bill will deprive the Treasury of 15 or $18,000,000 a year, which might be applied to the most valuable objects: and for whose benefit? For the benefit of the foreign manufacturer and foreign importer alone. Instead of putting this sum annually into our treasury, they now keep it in their own pockets. Foreign goods have not fallen, although every thing else has; we pay the same price: and the $15,000,000 heretofore paid by the foreigner for the privilege of our market, is now added to his profits. And when our manufactories fall, as they soon must, under this ruinous bill, the foreigner, left without competition, will demand and receive whatever price he may think proper to exact.

Is it possible the American people will silently submit and perish under the slow but fatal poison contained in this bill? It is time the people should be roused from their lethargy before it is for ever too late, and it was to call their attention to the subject that he had adverted to it on this occasion. But from what he had seen and heard around him, he feared that party motives would suppress inquiry and silence investigation until it might be too late to remedy the evil. For one, he was free to say that he came not here to promote the objects of party at the expense of his country and his constituents. He never had, and he never would, follow any party or any man all lengths, right or wrong; he was sent here for no such purpose. Nearly three-fourths of his constituents had voted for General Jackson; yet they all knew that he had never so voted except once, in his representative character, when he voted for them and not for himself. When representing the people, as a republican, he felt bound to represent them truly; but his constituents, as high-minded and honorable men, would despise him if he tamely and meanly surrendered his own judgment for the sake of conciliating their favor, or the favor of those who hold patronage and power here. And, on the other hand, he would despise himself if, when his constituents, who were nearly three to one in favor of General Jackson, had elected him to represent them, he could basely betray that generous confidence, by lending himself for a moment to a factious and indiscriminate opposition. He differed with the President on many of the great and cardinal points of public policy, to wit: the tariff, internal improvements, &c. But his invariable rule of action here was to support the measures of the administration where he could, and oppose them only where he must.

I believe (said Mr. S.) now, as I always have believed, that General Jackson is honest and patriotic in his purpose; but I also believe that he is a man of strong passions and prejudices, and is therefore often led into error by those who have acquired his confidence and who take advantage of it to accomplish their own sinister and selfish purposes. I know of no man who has had more frequent occasion to repeat the proverb, "save me from my friends." When I hear his friends here—the gentleman from New York [Mr. Cambreleng,] Mr. Patton of Virginia, Mr. Jones of Georgia, and others, rising daily in their places on this floor and eulogizing General Jackson to the skies for having, as they say, destroyed the tariff and internal improvements, for having crushed the American system—when I see the "Globe" itself come out and openly declare, but a few days ago, that "the American system (that triple-headed monster) is in its last agonies under the blows of the hero of New Orleans"—I think he has reason to exclaim, "save me from my friends." Is it by such appeals as this they expect to conciliate the support of Pennsylvania, whose measures and whose men are alike proscribed and denounced by these hypocritical friends and fawning flatterers, who have (from jealousy or some other cause) expelled from the cabinet and the confidence of the President every Pennsylvanian, so that there remains not one of her sons who has the slightest influence in the councils or policy of the present administration—an administration which owes more to the early and continued support of Pennsylvania than to that of any other State in the Union? Nevertheless, her measures are proscribed, and she is for the first time left without a voice in the cabinet. Why is it so? Is it because she has not given in her adhesion to the heir apparent? It is not, I am sure, because she has justly forfeited the confidence and favor of the President. As a Pennsylvanian, in principle and feelings, and he trusted a faithful and true one, he felt mortified at this state of things, and could not forbear to express it. For himself, he had nothing to ask or expect. There was no office he would accept, save that which he held under favor of his constituents, and now held for the last time. But in the retirement to which he was going, he would never cease to take a deep and lively interest in the deliberations and doings of this body, upon which so much depended the prosperity, the union, and the liberties of the republic.

When Mr. Stewart had concluded,

Mr. JONES said the gentleman had fairly and dis-

tinctly avowed the true ground of his opposition to the bill, viz: that it was a death-blow to the scheme for a national bank. On this ground the gentleman took his stand, and called upon others to aid him. Mr. J. was glad to hear it; it was an upright, honorable course, and far better than fighting under the bush. He wished all the opponents of the bill would come to the combat with the same honesty of purpose. Mr. J. declared it as his firm conviction that, on this measure of making the State banks the depositories of the public money, depended the ulterior question of creating or not creating a national bank. If the present bill should be suffered to take effect, and the deposites once placed in the State institutions, it would soon appear that there was no necessity for a national bank. It was on the ground of necessity alone that the Supreme Court had placed the constitutionality of such a bank. If it could be shown to be unnecessary, it was, of course, unconstitutional. The gentleman held it to be constitutional; and urged that Congress had chartered it as a corporation, but had then made it their fiscal agent; but if the gentleman would put the case upon its true grounds, he would soon become satisfied that such a corporation was unnecessary as the fiscal agent of the Government; and then its constitutional platform would be taken away. Mr. J. wished to have the question tested in that manner; he only wished that every gentleman would come fairly up to the mark, as the gentleman from Pennsylvania [Mr. STEWART] had done. Then he should see whether there would not be the same transcendental overwhelming majority in favor of the present bill, as had been found to declare that the bank should not be rechartered. His colleague [Mr. WILDE] had said that this was a bill to regulate the currency; and that Congress could not do that indirectly which it could not do in a direct manner. But this position was not true, either in politics or morals. Congress laid a tax for revenue—none ever disputed their power; but so far as such a tax operated as a protection to manufactures, they did that indirectly which they had no power to do directly, and the tax was still unconstitutional.

Mr. SELDEN here inquired of the Chair whether there was a quorum present?

Mr. PEARCE, of Rhode Island, remarked that Mr. S. could not interrupt the gentleman speaking to interpose that question.

Mr. JONES replied, with some warmth, that if the gentleman from New York [Mr. SELDEN] did not like to hear what he had to say, he might retire. He then proceeded to insist that the currency might indirectly be regulated by the employment of other banks as places of deposite. The bill provided that no banks should be so employed which issued notes of small denomination. This was an indirect mode of regulating the currency of the country. Yet, had not Congress a right to make such a provision? Might it not choose its own places of deposite? This, however, was the part of the bill to which his colleague seemed to object, although he had himself reported a bill forbidding the issue of such bills, for the purpose of increasing a specie circulation. One remark of his colleague deserved notice. As the gentleman was opposed to the places prepared by this bill, and was in favor of restoring the deposites to the Bank of the United States, he seemed not to feel any obligation to take charge of the public money, unless that object were to be effected. Now, Mr. J. did not understand that the act of the President, in causing the deposites to be removed from the bank, did in the least absolve any member of that House from the duty of taking care of the public revenues. After some further remarks, which escaped the reporter, Mr. J. proceeded to remark that there was one item in the bill which ought to be amended. The Secretary had the discretion in selecting the banks where the deposites were to be placed; and when once placed there, they could not be removed but by an act of Congress. Now, he was opposed to reposing this discretionary power in the Secretary, because it went to augment the executive patronage and power; the discretion of the Secretary must be, in effect, the discretion of the President; for the President could remove him if he did not exercise it in the way he approved. He was for taking away all such discretion. Let the banks share the deposites according to their several amounts of capital paid in. This would multiply the places of deposite; and that would recommend the bill, in his apprehension; for then no one bank could get an amount of the public money equal to its own capital. No difficulty could arise from this increase of the number of deposite banks, save the necessity of employing one or two more clerks. Thus, while no perplexity would attend the arrangement, it would be productive of greater safety to the public treasure.

Mr. MILLER said he would not detain the House a single moment at this late and important period of the session, if he did not discover some disposition to indulge members in stating their views briefly on the important subject before them. He rose principally for the purpose of protesting, or rather objecting, to the issue which his colleague [Mr. STEWART] and the gentleman from Georgia [Mr. JONES] had attempted to form on the bill under consideration, to wit: that it shall be considered a test question in relation to the views and opinions of the members on the subject of a national bank. He, Mr. M., did not so understand it, nor could he perceive that it had any necessary connexion with the question. What (said he) are the circumstances under which we are now legislating? The public deposites have been removed from the Bank of the United States, in pursuance of the reserved authority of the Secretary of the Treasury, in the 16th section of the bank charter, in consequence of the alleged misconduct of the bank; and he had no hesitation in believing that there was much in the conduct of the bank, if not to render it absolutely necessary, at least to justify the course that had been taken. In this opinion a majority of this House had concurred, by declaring that the public moneys ought not to be restored to it.

The recent conduct of the bank, in refusing to permit an examination of its affairs except in its own way, had strengthened the correctness of this decision. There are many men in this House who, in the early part of this session, were in favor of a restoration, that have since become dissatisfied with the course of the bank, and are now in opposition to that measure, amongst whom he was happy to find his colleague, [Mr. COULTER.] What, then, are we to do with the public deposites? is the question now presented. They are not to be returned to the Bank of the United States. The idea of locking them up in an iron chest, where the community can derive no benefit from them, in the shape of discounts, is hardly seriously entertained by any one. There is no place, then, for them at present, where they can be deposited with any advantage, but in the State banks; and the only important question left for us to determine is, whether we will leave them at the entire and uncontrolled discretion of the Secretary of the Treasury, or whether we will regulate, limit, and control his discretion in regard to them, by law?

Surely, said Mr. M., gentlemen who have been so loud in deprecating executive influence and patronage, cannot hesitate which alternative to choose. He had not examined the details of the bill very minutely, but from the examination he had given, he did not perceive any insuperable objection to it. He would therefore vote for it; but he was very far from considering its adoption as having any direct bearing on the question of whether there should be a national bank hereafter established or not.

That was a question not now under consideration. The charter of the present bank will not expire until March, 1836, and until then it seems to be generally admitted no new bank can be put in operation, even if there was a disposition to do so.

We must, therefore, have some place to keep the public moneys in the mean time, even if a new bank should be hereafter created; and, as he could perceive no better system, for the present, than that proposed in the bill now under consideration, he trusted the House would adopt it.

Mr. CHILTON said that he had risen to submit a motion, to which, under other circumstances, he should be opposed. We had now five remaining days of the session. Very much important and indispensable business remained unacted on; and unless this subject should be immediately disposed of, must necessarily remain unacted on, for the residue of the session, to the great detriment of the country. Sir, said Mr. C., I am opposed to the bill under consideration; firmly and immovably opposed to it. Yet that it will pass this House is perfectly evident to every member on this floor. Why, then, should we disregard our other high duties to the country, and consume the little remnant of our time in fruitless opposition to the will of the majority in this House, when we know that our position is powerless? The majority here can pass the bill; they will pass it, and theirs will be the responsibility of its passage. My reliance, sir, is elsewhere. I confidently trust and believe that there is elsewhere a reliance, and a safe one, too, in regard to this subject, on which the country may anchor its best interests. But, sir, as nothing can be gained by continuing this debate, and as much would be lost, in discharge of a solemn duty, which I owe to my constituents and my country, I demand the previous question.

The CHAIR having inquired whether the motion was seconded, it was decided in the affirmative.

Mr. BROWN moved a call of the House.

The motion prevailing, the House was called accordingly, when it appeared that seventy-one members were absent. The doors were then closed; absentees called, and excuses received; when, after one or two unsuccessful motions to that effect, the call was suspended.

The previous question being put, Mr. H. EVERETT demanded the yeas and nays; which were ordered, and stood as follows: Yeas 113, nays 77.

On the question of engrossment they were also taken, and stood: Yeas 111, nays 86.

So the bill was ordered to be engrossed and read a third time.

The CHAIR asked when? and the general response was "now." No objection being heard, it was taken to be so ordered.

A difficulty afterwards arose as to the question of precedence between this bill and that for the relief of the French sailors at Toulon, which had also, and previously, been ordered to be read a third time to-day. But after a desultory and somewhat tumultuous contest, the deposite bill having in the mean time been engrossed, was read a third time.

Mr. GHOLSON asked the indulgence of the House while he made an explanation, personal to himself, as to the course which he had, and which he proposed to pursue in relation this bill. It was known that in the early part of the session, he had advocated a restoration of the deposites to the United States Bank. He had done so, because he believed the conduct of the Executive, in their removal, to be unjust towards the bank, and an encroachment on the rights of the legislative department of the Government. It was also known that, a few days since, he had voted to lay upon the table the resolution from the Senate ordering the public revenues collected after the first of July, to be deposited in the United States Bank. He had given this vote from a conscientious conviction that the bank, in its late refusal to submit its books and proceedings to the free examination of a committee of Congress, had been guilty of a clear violation of its charter. He now voted for the engrossment and passage of this bill, not from a positive approbation of its principles or details; he decidedly preferred the amendment proposed by his honorable colleague, [Mr. Gordon,] which contemplated an entire divorce of the Government from all banking institutions. The success of the previous question had superseded and defeated that amendment, and he consequently considered the question then before the House as one between this law and no law at all. Viewing it in this light, he did not feel himself at liberty to hesitate. He should vote for the bill.

Mr. BURD opposed the bill; when the question was put on its final passage, and decided by yeas and nays, as follows:

YEAS—Messrs. John Adams, William Allen, Anthony, Beale, Bean, Beardsley, Beaumont, Blair, Bockee, Bodle, Boon, Bouldin, Brown, Bunch, Burns, Bynum, Cambreleng, Carmichael, Carr, Casey, Chaney, Chinn, Samuel Clark, Clay, Coffee, Connor, Cramer, Day, Dickerson, Dickinson, Dunlap, Forester, Fowler, William K. Fuller, Galbraith, Gholson, Gilmer, Joseph Hall, Halsey, Hannegan, Joseph M. Harper, Harrison, Hathaway, Hawkins, Hawes, Henderson, Howell, Hubbard, Abel Huntington, Inge, Jarvis, R. M. Johnson, Noadiah Johnson, Cave Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, Kinnard, Lane, Lansing, Laporte, Luke Lea, Thomas Lee, Leavitt, Lyon, Lytle, Abijah Mann, Joel K. Mann, John Y. Mason, Moses Mason, McIntire, McKay, McKim, McKinley, McLene, McVean, Miller, Robert Mitchell, Muhlenberg, Murphy, Osgood, Page, Parks, Parker, Patton, Patterson, D. J. Pearce, Franklin Pierce, Pierson, Plummer, Polk, Schenck, Schley, Shepperd, Shinn, Smith, Speight, Standefer, Stoddert, Sutherland, William Taylor, Francis Thomas, Thomson, Turrill, Vanderpoel, Van Houten, Wagener, Ward, Wardwell, Webster, Whallon, C. P. White—112.

NAYS—Messrs. John Quincy Adams, Heman Allen, John J. Allen, Archer, Ashley, Barber, Barnitz, Barringer, Baylies, Beaty, Binney, Bull, Burd, Cage, Campbell, Chambers, Chilton, William Clark, Clayton, Corwin, Coulter, Darlington, Davenport, Deberry, Denny, Dickson, Duncan, Ellsworth, Evans, E. Everett, H. Everett, Ewing, Felder, Fillmore, Foster, Philo C. Fuller, Fulton, Gamble, Garland, Gorham, Graham, Grennell, Griffin, Hiland Hall, Hardin, James Harper, Hazeltine, Heath, Hiester, Jabez W. Huntington, Jackson, William Cost Johnson, Lay, Lewis, Lincoln, Love, Martindale, Marshall, McComas, McKennan, Mercer, Milligan, Moore, Pinckney, Potts, Ramsay, Reed, Rencher, Selden, W. B. Shepard, Wm. Slade, Charles Slade, Sloane, Spangler, Steele, Stewart, Philemon Thomas, Tompkins, Turner, Tweedy, Vinton, Watmough, E. D. White, F. Whittlesey, Elisha Whittlesey, Wilde, Williams, Wilson, Wise, Young—90.

So the bill was passed and sent to the Senate for concurrence.

GENERAL LAFAYETTE.

Mr. ADAMS obtained leave to make a report, from the select joint committee, on the subject of the death of Lafayette, and reported the following resolutions:

Resolved, &c., That the two Houses have received, with the profoundest sensibility, intelligence of the death of General Lafayette, the friend of the United States, the friend of Washington, and the friend of liberty.

Sec. 2. *And be it further resolved*, That the sacrifices and efforts of this illustrious person, in the cause of our country, during her struggle for independence, and the

affectionate interest which he has at all times manifested for the success of her political institutions, claim from the Government and people of the United States an expression of condolence for his loss, veneration for his virtues, and gratitude for his services.

Sec. 3. *And be it further resolved,* That the President of the United States be requested to address, together with a copy of the above resolutions, a letter to George Washington Lafayette, and the other members of his family, assuring them of the condolence of this whole nation in their irreparable bereavement.

Sec. 4. *And be it further resolved,* That the members of the two Houses of Congress will wear a badge of mourning for thirty days, and that it be recommended to the people of the United States to wear a similar badge for the same period.

Sec. 5. *And be it further resolved,* That the halls of the Houses be dressed in mourning for the residue of the session.

Sec. 6. *And be it further resolved,* That JOHN QUINCY ADAMS be requested to deliver an oration on the life and character of General Lafayette, before the two Houses of Congress, at the next session.

The resolutionswere read twice, and ordered to be engrossed for a third reading, by a unanimous vote.

The engrossed bill authorizing the President to make an arrangement with the French Government respecting the French seamen killed and wounded by firing a salute at Toulon, was read.

After some remarks from Messrs. MCKINLEY, ARCHER, J. Q. ADAMS, and FELDER, the bill was passed: Yeas 133, nays 14.

On motion of Mr. POLK, the vote postponing the reconsideration of the fortification bill was carried, when he withdrew his motion to lay it upon the table; and the bill now remains upon the Speaker's table.

The House then adjourned.

WEDNESDAY, JUNE 25.

BANK OF THE UNITED STATES.

Mr. THOMAS, of Maryland, from the select committee appointed to investigate and examine into the affairs of the Bank of the United States, reported the following resolution:

Resolved, That Friday next be, and it is hereby, set apart for the consideration of the report of the committee appointed to examine into the proceedings of the Bank of the United States, and that this House will continue its consideration for each succeeding day thereafter, until finally disposed of.

Mr. WHITTLESEY, of Ohio, said, when the resolution was first read, which the gentleman from Maryland had reported, as chairman of the select committee appointed to investigate the proceedings of the Bank of the United States, he had doubts whether the powers of the committee had not ceased; but, on reflection, he was satisfied his first impression was erroneous. It must be apparent, he said, that, if the resolution were adopted, the bills from the Senate could not be acted upon. Many of those bills were of importance to the public, and others to individuals; and, under the full conviction that none of them could be acted on if the resolution should pass, he moved its consideration.

Mr. THOMAS hoped the honorable member from Ohio would withdraw his call for the question of consideration, that he might have an opportunity to explain the motives which had induced the committee to report the foregoing resolution.

Mr. WHITTLESEY, not being disposed to take up the time of the House in discussion, would withdraw the call.

Mr. WATMOUGH said he would renew it, as it was too important a subject not to be decided upon at once.

Mr. THOMAS, however, having claimed the floor,

The SPEAKER decided he was entitled to it; after which,

Mr. THOMAS asked the indulgence of the House for a few moments, to state the reasons which had influenced the committee to order that this resolution should be reported. It would be recollected that the report of the bank committee had been made nearly a month since, and had not been called up for consideration. The committee had omitted to call for its consideration because, on informal consultation with many of the members of the House, of both sides of the question, they concluded it to be the wish of a large majority of the members that the bank report should not be taken up until the appropriation bills had first been disposed of. We have now reason to believe that all bills, the passage of which are indispensable to the healthful action of the Government, will have been disposed of by Friday. Seeing that it is probable we may have time to act on this report, the committee are unwilling to call it up suddenly, and therefore wish the House to fix a stated period for entering on the grave and important questions involved in these reports. Mr. T. said he was fully sensible it is now too late to act on the fifth resolution accompanying the majority report; for that reason it was his purpose to submit, in lieu of that resolution, one, by which the Sergeant-at-arms should be required to notify the persons who have defied the authority of this House to appear at its bar on a day to be named, early in the next session, to await its further order.

Mr. WATMOUGH had no objection to have the subject discussed now, if such was the pleasure of the House. He had renewed the motion for the consideration of the resolution, in order to save the time of the House from being wasted in unprofitable discussion.

After a desultory conversation, in which Mr. HARDIN, Mr. J. Q. ADAMS, Mr. LYTLE, Mr. WARDWELL, Mr. MERCER, and Mr. BURGES, participated,

Mr. GORDON called for the yeas and nays; which were ordered, and

The House decided to consider the resolution: Yeas 95, nays 65; thereupon,

Mr. WILDE rose and said it was not his purpose to prolong the discussion at this moment, but, presuming if it was the pleasure of the majority to take up the subject at this late period, that they would act in such a way as would procure for the subject a fair and deliberate expression of the opinion of the House upon it; he desired with that view to offer the following, as an amendment to the resolution reported by the select committee:

"That the resolution reported by the select committee, appointed to examine into the condition of the Bank of the United States, be committed to the Committee of the Whole House on the state of the Union; and that the House will, on and after Friday next, resolve itself into the Committee of the Whole on the state of the Union, and proceed to consider the said resolutions, from day to day, till they are disposed of."

Mr. ELLSWORTH said it would have given him pleasure to have had the proposition taken up, and discussed in such a way as the important matters involved in it required, if it had been made at an earlier period of the session. But, unless the House would in the first place agree to extend the session, what hope could there be that it could now be discussed? He, in this case, would be willing, he was desirous, they should go into it with the *bona fide* intention of discussing it, so that they would come to a proper conclusion upon it. But, if such was not the intention of the majority of the House, and that the only object was to come to a just conclusion by a

resort to the previous question, then he would submit whether any good was likely to result from such a course. He repeated that he desired to have an examination made with good faith, and he did not desire to see such a course followed as had been the day previous, in bringing the deposite bill to a conclusion. The means taken to bring a bill which went to seal principles on which the public treasure was to be regulated, not for a day, but for all time to come, he should not easily forget. We were not permitted to discuss the general provisions of the bill, nor to take the sense of the House on a single amendment. It is not legislation, but coercion. Such means to come to such a conclusion he did not desire to see followed out.

Mr. MILLER rose and called for the orders of the day; whereupon,

Mr. H. EVERETT moved that the House should resolve itself into Committee of the Whole on the state of the Union, for the purpose of considering the bills reported from the Committee on Indian Affairs.

Mr. THOMAS said he did not desire to prolong this running debate, but as it must be, he supposed, desirable for the House to know whether this subject was to be taken up, he hoped the honorable member would withdraw his motion, so as to let the question of consideration be decided.

Mr. H. EVERETT said he must persist with his motion to go into committee on the Indian bills.

Mr. J. Q. ADAMS inquired if the fortification bill, as the unfinished business, was not the special order for today? Such being, he thought, the understanding when it was postponed to make way for the deposite bill.

The SPEAKER decided that the Indian bills were the special order.

INDIAN BILLS.

The House then, agreeably to the special order of the day, resolved itself into Committee of the Whole on the state of the Union, Mr. Wilde in the chair.

The bill to provide for the organization of the Department of Indian Affairs, and the bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, were taken up, and, after being amended, were laid aside.

The committee then proceeded to consider the bill providing for the establishment of the Western Territory, and for the security and protection of emigrant and other Indian tribes therein.

Mr. ADAMS considered this as a very extraordinary bill, with a very extraordinary title. It was as good a bill to raise a constitutional argument upon as any he had ever seen or heard of. What constitutional right had the United States to form a constitution and form of government for Indians? To erect a Territory to be inhabited exclusively by Indians? He wished to know if the committee were prepared to show under what part of the constitution this was authorized?

Mr. H. EVERETT replied, that he did not expect to discuss the question of constitutionality in committee, but in the House. No member of the committee had had even a doubt on the subject. The clauses giving Congress power to dispose of the Territories, and to regulate trade and intercourse with the Indian tribes, were abundantly sufficient to warrant every thing in the bill.

The committee then rose, and reported the bills and amendments to the House; when the amendment to the bill organizing a Department of Indian Affairs was concurred in, and the bill ordered to its third reading.

The bill to regulate trade and intercourse with the Indian tribes, and to preserve peace upon the frontiers, being taken up,

Mr. ASHLEY moved to strike out the section which provides for the appointment of commissioners to make Indian treaties, on the ground not only of the great expense, but because Indian agents were more competent to perform the duty.

After a brief discussion, in which Messrs. H. Everett, Ashley, Wayne, Ewing, and Williams, took part, the motion prevailed, and the section was stricken out of the bill.

It was then ordered to its third reading.

The bill to establish a Western Territory coming up, Mr. VINTON, though highly disapproving of the bill in its present form, said he would not move to destroy it, but he wished it postponed to next session, when there would be more time to consider it.

Mr. V. went into an examination of the several sections and provisions of the bill, commenting with much severity upon almost every part of it, as going to establish an absolute military despotism in a remote Territory, and in the hands of a single man.

Mr. H. EVERETT replied, but declined entering at large upon the question. Were the bill intended for civilized whites, in a condition like ourselves, the objections would be valid; but it was meant for Indians, for different tribes of Indians brought into close proximity, and after the United States had bound itself to preserve peace among them. The provisions of the bill had been submitted to the Indians themselves, who not only did not complain of them, but were highly anxious for the passage of the bill.

Mr. WILLIAMS now moved that the House take a recess till half past 4 o'clock.

After repeated attempts, this motion at length prevailed; and the House took a recess accordingly.

Evening Session.

At half past four the House met, and again took up the bill to establish the

WESTERN (INDIAN) TERRITORY.

Mr. H. EVERETT rose to address the House in explanation and defence of the bill. As he considered it of the utmost importance, as well to the interests of the United States as of the Indian tribes, that this bill should pass, he must beg permission to occupy about ten minutes of the valuable time of the House in explaining its provisions, and in adding a few observations upon the general subject of our Indian affairs. As the character of the bill had been totally misapprehended, and its enactments greatly misrepresented, he was desirous of putting the House in possession of its true nature and object. The committee had been presented before the House as purposing the oppression of the Indian tribes, and the erection of an odious tyranny over them: whereas their only aim had been to afford to the Indians effectual and complete protection, and that in a manner which, while it should be entirely satisfactory to them, should not be inconsistent with the rights of the United States.

The first section of the bill related simply to the extent and limits of the Territory: which was to extend from the Platte river on the north, and the boundary of Missouri and Arkansas on the east, to the Spanish possessions in the west and south.

The second section had for its object the fulfilment of existing treaties between the United States and the Indian tribes, and the carrying into effect the law of 1830. It dedicated the entire Territory to be erected exclusively to the use of those tribes, as that law did. The committee took it for granted that it was the desire of the Government to place all the Indians on one and the same political ground.

The third section provided for the self-government of the tribes, and for their protection as well as that of the people of this country. It was drawn in conformity with the provisions of various treaties, nor did it go beyond them. Its intention was to secure and perpetuate the

right of self-government, so far as related to the tribes themselves. This section contained a provision which authorized the employment of military force to aid the tribes in the execution of such laws as they might themselves enact: and not, as the gentleman from Ohio [Mr. VINTON] supposed, to enable officers of the United States to bring down the military power of the Government upon the Indians against their will, and for the purposes of oppression. No such object was intended, nor could any such consequence ensue. The words of the bill were, "it shall be competent for the general council to furnish such force as from time to time may be necessary, towards the support of such Government, and the troops of the United States may, under the direction of the President of the United States, be employed on the same duty." The law was simply permissive, and looked to the will of the Indians.

The fourth and fifth sections, providing for the appointment of a Governor and Secretary, followed as a necessary consequence of the other provisions of the bill; and if it should in the end turn out that no confederation should be formed, all the tribes would still remain under the intercourse law, and these offices would be abolished. But the committee had received the strongest assurances, from the Indians themselves, that the confederation would be formed. They had before them the memorials of twenty different tribes, all expressive of their desire for such a measure; and the committee entertained no doubt that a plan so beneficial would be adopted.

The manner in which this confederation was to be formed was the subject of the sixth section of the bill. He would read it.

"SEC. 6. *And be it further enacted*, That as soon as may be, after his appointment, the said Governor shall convene, at some proper point, a sufficient number of chiefs of the various tribes who have emigrated from the eastern to the western side of said river, and who may reside in the said Territory, together with the chiefs of such of the other native tribes of said region as may appear, from their situation and habits, qualified to be admitted into the confederacy it is proposed to establish, and shall submit to them a proposition for their assent to such of the provisions of this act as require the co-operation of the authorities of the respective tribes, in order to carry the same into effect; and such assent, if given, shall be in writing and in duplicate, one of which duplicates shall be transmitted to the War Department, and the other shall be preserved in the office of the said Governor: *Provided*, The articles of confederation shall not be binding on any tribe unless assented to by the chiefs of such tribe, being previously authorized thereto, or unless they shall be ratified by such tribe: *Provided, also*, That such confederation should not take effect until the Choctaw, Creek, and Cherokee tribes shall have given their assent thereto. And that thereafter other tribes in said territory may join said confederation, and become members thereof."

The gentleman from Ohio [Mr. VINTON] seemed to understand this as a permanent arrangement, intended to last for ever, and keep the Indians in perpetual servitude. The gentleman was mistaken. It was merely a provision to make a commencement of the confederation. If such a combination was ever to be formed, some one must take the first step toward it; and who was to do this? Who could do it, or ought to do it, but the United States Government? It would be useless to expect the Indians to do it: they were unacquainted with the manner of conducting business: they knew in fact nothing about it. It was the Government who must make the advance; and the law accordingly provided that the Governor should select the chiefs who were fitted to enter upon such a design, and notify them to come together; when the plan of confederation was to be submitted to them, and they were to act freely in adopting or rejecting it. The system was not to be imposed upon them; it was to be proposed to them--to be offered to them. No tribe could be compelled to enter into the plan without their own free consent. It was expressly provided that "the articles of confederation should not be binding on any tribe unless assented to by the chiefs of such tribe." With such a proviso on the face of the bill, how could it be understood as a scheme of tyranny and oppression? How could the freedom of the Indians be more fully secured? It would be observed that the confederation was to take effect so soon as the assent of the Chactaws and Cherokees should have been given to the plan. The other tribes would then be at liberty to come into the measure or not, at their pleasure. Should they conclude not to enter the confederacy, they would of course remain under the intercourse law. He could not conceive of any fairer arrangement than this.

The seventh section of the bill had reference to the formation of a general council. The gentleman from Ohio [Mr. VINTON] had objected to the mode of appointing this council; if that gentleman would point out some other mode more safe and expedient, Mr. E. should be glad to hear it. The gentleman could not but be aware that the Indian tribes were not accustomed to the mode of conducting elections; nor was it to be expected that they should at once be able to adopt the practice. The bill therefore proposed that, where members of the council were not elected by their tribes, they might be selected. But this selection was to be made, not by the Governor, but by the Indians themselves. All the concern of the Governor in the affair was to decide whether the members of council should be selected or elected. It was the purpose, and the express provision of the law, that, as soon as any tribe should be competent to conduct elections, their representatives should be elected. "As fast as the tribes are found competent to elect their representatives, that mode of proceeding shall be adopted."

As to the powers of this confederation, the gentleman from Ohio could not certainly have read the section critically, or he must have perceived that it contained nothing which went to touch, in the slightest degree, the rights of the tribes, as to their own concerns. Either the United States must establish a government over these Indians, or the tribes must do it themselves; because the United States Government was bound, by treaty stipulation, to protect the removed tribes from each other, and from all foreign tribes who might assail them. The Government proposed to the Indians to form a confederation for the purpose of performing these duties, in which case the United States would not interfere farther than to reserve a veto on such acts as might be inconsistent with our rights or security. Mr. E. said that gentlemen ought to bear in mind that this was intended as the beginning of government among a people not accustomed to legislation. We had an interest in the acts they should pass; we had a direct concern that none of their regulations should be such as to lead to strife and contention; and, to prevent such consequences, a veto was retained in our own hands. Was not this reasonable, and obviously necessary? Suppose the council, acting according to Indian notions, should think fit to enact retaliation by law; the consequence would soon be war among themselves; and so soon as the torch of civil discord was thus lighted, the United States Government must act; it was bound to act; the treaty and the law required it. We had, therefore, a direct interest in the enactments of this new Indian government. The committee looked to this bill as the commencement of such a government, and should the experiment succeed, we might hereafter very possibly be in circumstances which would justify us in withdrawing from all superintendence over them or their affairs. The confederation would possess no concentrated power of its own; if we meant to give effect to their enactments, it

was indispensable that military force should be employed, if necessary. And in fact, the Government had now a military force among them, and it must continue to have for some time to come. Nor could we have any other mode of controlling them, unless the Indians should be authorized to erect a government of their own. We were not making a government for them; we were merely authorizing them to make one for themselves. We did not say what the government should be, but what it should not be. So far as they adopted the plan, so far they relieved us of the burden.

The gentleman from Ohio objected to another feature in this section, viz: that the "members of the council shall receive from the United States their necessary subsistence, while attending the said council, and returning home, until otherwise provided by law." The gentleman considered this provision as amounting to a system of bribery. What would the gentleman have? The Indians had no money; and if their delegates were to attend the council at all, their expenses must be paid by the United States. The Government could not withhold the support. If they could, there would be something more in the gentleman's argument. Either the expenses must be paid, or they could not assemble. But, for this advance of money on our part, we should obtain the amplest compensation in the relief from burdens which must otherwise lie upon this Government.

The eighth section did nothing more than place the officers, and others employed in the United States service, and persons travelling through the Indian territory, under the protection of the United States. This was obviously proper.

The ninth section contained a restriction on the natural rights of the Indians, but one which was expedient and necessary. The Government was allowed, in all capital cases, to suspend the punishment until the pleasure of the President should be known. If gentlemen would take into consideration the extensive intercourse of the Indian tribes with the whites; that they were new in legislation; and, above all, that they were a people of deep passion, and bred from infancy to revenge, they must admit the propriety of putting some restriction on the power of inflicting death at pleasure upon whom they would. Otherwise, traders and travellers might be unjustly condemned, and sacrificed before their case could be duly considered.

The tenth section provided for the suppression of hostilities among the tribes themselves. This was no new power. We possessed it and exercised it now. By this section the Governor was empowered to require the aid of all the tribes, or of the United States military within the Territory, to put down the beginning of hostilities. And in whose hands should this power be lodged, if not in his? It referred to a case which required immediate action. Was the Governor to wait till a messenger could be sent all the way to Washington?

The last provision of which he should speak was contained in the eleventh section; and it was more practical in its character than all the rest. It allowed to these confederated tribes a delegate upon the floor of Congress. This privilege was not granted to any one tribe, but to the confederation of tribes. The House, Mr. E. said, would perceive the necessity for some provision of this kind. The present policy of this Government, in respect to the Indians, was to civilize them; and what could be a stronger aid to such a design than by such an enactment as this, to hold out to every Indian chief of distinction in his tribe, the prospect, at least the possibility, of occupying a seat upon that floor, in the Legislative Council of this great nation. An appeal of the most stirring kind was thus made to the ambition of every chief to render himself fit for so high a distinction. He was confident it would have more effect than any or all other excitements which could be addressed to the Indian mind. Why had the effort at civilization thus far been attended with such small success? Because it never proposed to raise the Indians so as to render him a companion to ourselves. It held out no bright object to his ambition. Here and there a little speck might be seen, where we had done some little at bettering their condition; but hitherto we had set no great and commanding object before their view, nothing for their mind to look to and to rest upon with interest and hope. All the bills heretofore passed had looked to the same object—they had employed the Indians as traders, as interpreters, and as teachers, wherever they would be employed; but they had set no such prospect before them as being received into Congress. The object of the committee had been to benefit the Indians. This was the scope of the bill; and such, he trusted, would be its result. There could be no safer guide on this subject than the views and feelings of the Indians themselves. They had seen this plan, and they were satisfied with it. The chiefs who had examined it were as intelligent men as any to be found; they understood their own rights and their relation to this Government; and they were well acquainted with the will of their respective tribes. The committee had consulted them intimately; and the measures of the bill had their entire approbation. As to the constitutionality of such a bill, the committee believed that were they to form a government, (which by this bill they did not do, but merely sanctioned a government to be formed by others,) still they had the most unqualified right to do so within the Territories of the United States. There was no restriction upon the power of the Government over the District of Columbia; and why over other Territories? Congress had the same power to pass an intercourse law as to make a law for the government of our citizens in respect to foreign nations. The committee proposed no more than had been done by the law of 1802. The Government, he repeated, was bound to do this. It was bound by treaty to secure to the removing Indians the right of soil, the right of self-government, and protection against other tribes. Congress had all the power requisite to carrying the treaties of the country into full effect. It was not for the Indian tribes to say to Congress, you have not the power to pass such a law. Congress had the power, and the Indians had recognised it by treaty. It was on this ground that the Government claimed the right to reprieve criminals capitally convicted, and to interpose its veto upon any Indian law. The tribes must assent to this plan of confederation before it could go into effect. They could not, therefore, complain on that ground. The Indians, when invited to remove west of the Mississippi, inquired of the United States' agents what was to be their situation there; they wanted to know definitively what they had to expect. They wanted to know if they were to be subjected to military force. This plan obviated the chief necessity for the employment of such force, by giving them the means of self-government. The gentleman from Ohio must surely be aware that the Indians were new and raw in the task of self-government, nor could they be expected otherwise. He would not give them a plan suited to people in an advanced stage of improvement and civilization. It was sufficient to say that this bill had been submitted to the most intelligent of the Indians, who entirely approved of it. If they were satisfied, the gentleman might be.

Mr. J. Q. ADAMS said he was glad the attention of the House had been called to this bill; respecting which, he must confess that he felt very much as the gentleman from Ohio [Mr. VINTON] did. He could have wished that the consideration of it had been postponed to the next session. He was not prepared at this time to pronounce a definitive opinion with regard to the merits of the bill; for, indeed, he had never read either the bill or report before to-day. This, to be sure, might be charged upon his own negli-

gence; but the attention of the House had been so absorbed by matters in themselves of infinitely less importance, that he had not had time to think of other subjects. He knew that there had such bills as this and the others accompanying it, [viz: a bill to provide for the organization of the Department of Indian Affairs, and a bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers,] been reported by the chairman of the Committee on Indian Affairs during the present session; but what was their general character, or the provisions they contained, he had never understood. He was far from suspecting that any such a bill as this was included among them; and he believed that a large portion of the members of the House were in the like situation. Having glanced over the bill, he felt disposed to make a constitutional question on the power to pass a bill of such a kind; and that not only in reference to the rights of the Indians, but also of the people of the United States. What did the bill contain? A project, not only for the erection of an Indian Territory, but for an Indian State, to be admitted, hereafter, as one of the sovereign States of this Union. This was the seminal principle of the bill. The region of country described in it was erected into a Territory; and it was expressly provided that the rights of the Indians were not to be impaired by the Territory's being admitted into the Union as one of the States. He asked whether that House, upon a half hour's notice, was prepared totally to change the relations of the Indian tribes to this country? Whether they were ready to declare that these people were to be admitted, in their collective capacity, as a State of this Union? Nay, he did not see, upon the principle of the bill, but they would be bound to admit not only one, but two or three, or half a dozen such States. The bill looked directly to a time when this Territory was to become a State. He asked, in reference to the people of the United States, where was the right of Congress to establish any such a Territory? It was totally different from any thing that had ever been done before. Did the honorable chairman profess to find this right in that clause of the constitution which declares that Congress shall regulate the Territories? What were these Territories? They were portions of land and water—inanimate matter. But what right did such a clause give to Congress over living human beings? The clause spoke of "the Territories and other property of the United States." Were human beings the "property of the United States," although in a savage condition? Surely not. They were not the "Territories" referred to in the constitution. If the constitution had said, Congress shall have power to regulate human beings as property of the United States, the House would soon have had the question upon the bill. If such a right did exist, why did it not apply to the slaves of the South, as well as to the Indians of the West? They, too, were human beings. But there was no such clause; and the clause, as it stood, had no reference to persons. This was a bill to govern persons. And he was still obliged to call for any article in the constitution which warranted such a measure, or conferred such a power.

But the bill not only affected the rights of the Indians, it touched the rights of the people of the United States. It went to let in the Indians as constituting a portion of the sovereign States of the Union. That involved a very serious question; he wished further time to consider of it; he was not prepared to assent to such a measure upon so short notice. He hoped the bill would not pass at present. He would not say there might not be strong arguments in favor of going even the whole length proposed. He was not ready to decide, finally, against such a policy. He did not feel prepared to decide upon that question; nor did he believe the people of the United States were better prepared than himself.

There was another feature of this bill which struck him as extraordinary. He had observed the same thing in other bills, and he noticed it as a characteristic feature of the prevailing operations of this entire Government. He meant the perpetual disposition to transfer the powers of Congress to the Executive. This bill went to divest Congress of all power over the relations of the people of the United States to the Indian tribes, and placed it wholly in the hands of the President. So strongly did this purpose mark the bill, that he found something of it in every section. Take, for example, the 3d section:

"Each of the tribes residing within the said Territory may establish and maintain such government, for the regulation of their own internal concerns, as to them may seem proper; and it shall be competent for the general council to furnish such force as from time to time may be necessary, towards the support of such government; and the troops of the United States may, under the direction of the President, be employed on the same duty."

Here the troops of the United States were to be at the disposal of the President. The Indian tribes were to employ their own force, and the President of the United States might employ the army of the United States to support the Indian government. This was the first feature. What came next? "That a governor of the said Territory shall be appointed by the President;" this, to be sure, was to be "by and with the consent of the Senate." The governor thus appointed was to reside "at such place as may be directed by the President of the United States;" and he was to "execute such duties as may be enjoined by law, or as may be directed by the President." This territorial governor was to obey the laws of Congress, so far as the President might think proper; but if he received orders in direct opposition to the law, he was to act "according to the directions of the President of the United States." The President was thus erected into supreme legislator, beyond and above all the laws of Congress. The governor was bound to obey his will, as much as if it were the voice of the Legislature. So, in case of the absence of the governor, the secretary was required "to fulfil such other duties as shall be enjoined by law, or as may be directed by the President of the United States." The secretary was thus placed under the absolute, unrestricted power and direction of the President, in the same way as the governor.

The next section provided for the assembling of the chiefs, which was to be done at such time and place as the governor might choose, and such only were to be admitted into the confederacy as "might appear," to the governor, "qualified to be admitted" into it. And then came the section providing for the election of the Indian council. Here the governor was to determine whether the delegates to this council were to be elected, or appointed by a "selection" from the "existing chiefs." It was tantamount to saying that the Indians should select such persons to represent them as the governor might direct. There was, to be sure, a proviso, "that as fast as the tribes are found competent to elect their representatives, that mode of proceeding shall be adopted." "Found competent." By whom? And when? By the governor. He was the sole judge. He was to say how soon they were "competent." This contemplated a total change in the character of the Indian people. He should suppose the Indians would expect to have some voice themselves in the choice of their own representatives; but this was left entirely to the selection of the governor. The whole relations, the entire destiny of the tribes, was to be changed. Their whole constitution was to be destroyed; if, indeed, it was not an absurdity to talk of such a thing as an Indian constitution. They all had some sort of fundamental law; and in the case of the Cherokees, there was a written instrument, taken from the constitution of the United States

He supposed these Cherokees were to have the chiefs who were to represent them in this great Indian council selected for them, until the governor should be pleased to deem them "competent" to elect for themselves. All was to be discretionary with the governor and the President. The confederation was to have a government, and with some powers. They were to "make all regulations respecting the intercourse among the various tribes; to preserve peace; to put a stop to hostilities; to settle any question of dispute respecting boundaries; to arrest and punish all Indians who may commit offences within the district of one tribe, and who may flee to another; and, generally, to take such measures as may be necessary to give effect to the intentions of this act." These powers sounded well; but what did they amount to? "All the regulations adopted by the said council shall be submitted to the governor for his consideration, and shall have no force unless approved by him." All was to be left at the discretion of the governor. Here was a legislative council substituted for the immediate Government of the United States. Very good. But what sort of independence was this legislature to possess? "The members of the said council shall receive from the United States their necessary subsistence while attending the said council and returning home." He asked, again, what sort of independence would the members of such a body possess, whose support was at the pleasure of the United States, and all whose acts were to be of none effect unless they were such as pleased the governor? Was it not a mockery to give the Indians a government like this? Would it not be better at once to say: The governor shall at his pleasure select certain chiefs, who shall enact such regulations as he shall direct? Would not this be better than to give them the empty shadow of self-government? Then, to close up the whole, came in, at the end of the section, that provision of force which characterized the entire bill from beginning to end. "And in order to give effect to the regulations of the said council, the military force of the United States shall be employed in such manner as the President may direct."

The following section contained a double provision respecting persons offending against the laws of the United States, or the laws of the Indian tribes. The bill was intended to bring the tribes under the laws of the United States; yet here were two provisions which applied equally to offences against the laws of the United States and the laws of the Indians. The bill created a double jurisdiction; it rendered a man liable to be punished twice for the same offence: for one and the same act might be an offence against both codes of law. He thought this part of the bill likely to lead to unpleasant collisions of authority, and to occasion much injustice.

The ninth section provided for the surrender of offenders who belonged to one tribe, and had been guilty of offences against another. It provided that such persons were to be tried by five chiefs, to be summoned by the governor. Here was a provision which was neither Indian law nor United States law, but something differing from both, and worse than either. A man guilty of murder was not to be tried by a jury, but by five chiefs selected by the governor from different tribes. What was this different from saying that the life and death of every accused person should be at the discretion and disposition of the governor? For their sentence was to be carried into immediate effect, unless the governor should suspend it, and refer the case to the President. And when that was done, could the President pardon the offender? The law did not say so; and the provision of the constitution, giving the pardoning power to the President, did not cover this case; it related only to cases in which a man had been tried and convicted by his peers. He presumed, however, that the President would act his pleasure. That was the character of the bill, from beginning to end. He would execute the man if he pleased to execute him, or pardon him if he chose to pardon. Whom he would he killed, and whom he would he kept alive.

By the tenth section the governor could take hostages from the Indians, whenever he might think necessary; in which case he was to report his doings to the President.

The result of the whole would be that the governor would do as the President chose, and the court and the council would do as the governor chose. It all came to that at last.

The gentleman from Vermont [Mr. Everett] declared this to be necessary, and Mr. A. did not know but it might be necessary. Such a power might already exist; he presumed it did; but it was certainly a very great extent of power. He would neither vest it in the governor nor in the President.

Then came the provision in the eleventh section empowering the Indian council to elect a delegate to the Congress of the United States. If this did any thing, it ingrafted a new feature upon the constitution. That it was done knowingly, and with deliberation, appeared from a previous section, where it was expressly admitted that the Territory created by the bill might one day become a State of the Union.

Then came the fourteenth section, by which it was declared that, "if any of the tribes in said Territory or said general council shall adopt, as the law of such tribe or confederacy, any or all of the prohibitory provisions of the laws of the United States, regulating trade and intercourse with Indians and Indian tribes, with such punishment as shall be approved by the governor, and establish competent tribunals for the trial of offenders against the same, it shall be lawful for the governor to employ the military force of the United States, to arrest and detain such offenders within the limits of said Territory, and to carry into effect the judgment of said tribunals." Here was the true character of this bill. Under the appearance of extending a constitution and a government to the Indians, they were placed, by it, from beginning to end, under the discretion of a governor, who was to be entirely subject to the President of the United States. It produced a complete revolution, both in our own country and in the Indian Territory. It transferred the whole power of legislation over the Indian tribes from the Congress of the United States to the Executive.

Mr. A. here said he was done. He had gone through the bill, and stated such views of it as struck his mind; and he again demanded to know by what right, from the constitution, Congress was empowered to pass such a bill? He concluded by moving to lay the bill upon the table.

Mr. A. having, by request, withdrawn the motion,

Mr. GILMER said he was fully aware that the time of the House was now very precious; yet he could not refrain from making a brief reply to the remarks which had just fallen from the honorable gentleman from Massachusetts. The gentleman had not adverted to the terms of that provision in the bill to which his objections mainly applied, and, in consequence, he labored under an entire misapprehension of the purpose and effect of the bill. All that the gentleman had said in relation to that clause in the second section which referred to the Territory ever becoming one of the States of the Union, was founded on such misconception. If the gentleman had connected that clause with the words which preceded it, he would have found no difficulty. The explanation was simple. The Indians, as every body knew, were peculiarly sensitive on the subject of their lands. The bill had provided that, if any one of the tribes should become extinct, or should abandon their land, the title should revert to the United States. The Indians, understanding this, began to inquire what would be the conse-

quence, should the territory now granted them at any time hereafter become a State of the Union? Would they not lose the title to their lands entirely? To meet this fear, and effectually to guard against the danger of such a result, the clause on which the gentleman had animadverted with so much earnestnesss had, upon the suggestion of the Indians, been inserted in the bill. It was in the following words: "And that the right of such Indians or tribes shall not be impaired by their being at any time formed into a Territory, or one of the United States." The whole effect intended was to quiet their minds as to the title to their lands. It gave them the assurance that, whatever might be their relations to Government, now or hereafter, they should not lose the title to their land. The "right" spoken of in the clause was the right to their lands. It had not been the intention of the committee to declare that a State should be formed; but only, out of extreme caution, to provide against such a contingency.

The gentleman from Massachusetts was equally mistaken in what he understood to be the power of the United States Government over the Indian council spoken of in the bill. The bill declared that such council should "consist of not less than twenty-four members, who shall be elected by the respective tribes, or selected from the existing chiefs, in proportion to their numbers, which proportion shall be determined by the governor, as shall also the manner of their appointment, whether by election or selection. Provided that, as fast as the tribes are found competent to elect their representatives, that mode of proceeding shall be adopted." Many of the tribes were still so ignorant and so unfit to manage public business, that the committee did not think it expedient to extend the number of the council beyond the number mentioned, of twenty-four, lest its capacity of action should be impaired. The counsellors were to be chosen by their own tribe, or selected from among its present chiefs. Some of these Indians knew nothing at all about conducting an election. Two of the tribes, however, the Cherokees and Choctaws, did know and practise it. These were, of course, to elect their representatives; others were to be selected, where chiefs had the authority. But let it be understood that this selection was not to be made by the governor, but by the Indians themselves. The governor would know the numbers of the several tribes, and he was to designate the proportion of each tribe in the representation of the whole body. The committee could not fix the number to be allowed to each tribe, because they did not know the comparative population of the tribes.

There was nothing very important in the other objections which the gentleman had urged. The use of the military force was indispensable, for this reason: that there was no other force by which Government could give effect to the decisions of the council. Were there any civil officers to do it? Were there any citizens of the United States there? Any sheriffs or marshals? Who was to aid the council in carrying its laws into effect? The military alone could do it, if those decrees were to be enforced at all. Would the gentleman from Massachusetts point out any other agent by whom it could be done? The gentleman talked about liberty, and forms of government, as if it was proposed to establish a government for an enlightened community like our own; and if that were the condition of these poor Indians, there might be some force in the gentleman's remarks; but all who knew what the Indians really were, knew that they were not prepared for the enjoyment of such privileges. They would be lost as soon as bestowed. The committee were actuated by an imperative sense of duty in what they had done. Their desire was to protect the Indians in the enjoyment of such happiness as they were capable of enjoying. And the question was how to do this. Had any gentleman a better plan to propose? Because these rude tribes were not prepared at once for the full exercise of all the rights of enlightened freemen, was there no commencement to be made? No approximation to be allowed? No preparatory steps to be taken?

And this brought him to the consideration of that which he imagined had chiefly operated on the mind of the gentleman from Massachusetts, and urged him to oppose this bill. He meant the question of power. The gentleman had asked, whence did Congress derive power to pass such a bill, and establish such a government over the Indian tribes? Did not the gentleman admit that the States had jurisdiction over all their own territory, unless it had been ceded away to Government by their own act? And who should form a government over one of the Territories but Congress? Where did the people of Michigan or Arkansas get their laws from? Was it not from Congress? Such jurisdiction was inseparably connected with the dominion of the General Government. If, then, the States had no jurisdiction over the United States Territories, the question of power was no longer a constitutional question. The true question was only as to the means of exercising the power. Mr. G. was not going to deny that the condition of the Indian tribes was anomalous, and was attended with questions of great difficulty. All who had examined the subject had found it so. He did not say the difficulty was insuperable, but it was great and perplexing. It arose from the fact that the Indians were a people, all whose habits, interests, and opinions, differed so entirely and essentially from those of the people of the United States, that it was impossible for this Government to create a code of laws adapted to their notions and their wants. We could not do it. We were ignorant of their ideas and their habits; nor could we obtain such a knowledge of them as would fit us to become legislators for a people so different from ourselves. Under such circumstances, what were Congress to do? If any gentleman would examine the records of the administration of the honorable and very distinguished gentleman from Massachusetts, [Mr. ADAMS,] they would see where the project originated which had since been approved by all humane and intelligent men. The expedient then proposed had been to give them a Territory to themselves. The very idea had proceeded from the gentleman from Massachusetts himself. If any gentleman would look to the report of General Porter, when Secretary of War, he would find that that officer gave the whole credit of the plan to the administration under which he acted, while the zeal and efficiency with which he promoted it tended justly to elevate his own character. The document he referred to was a lasting monument to his honor. Under the previous policy of all the Governments, State and Federal, the aborigines of our land were in a course of rapid extinction. All efforts to arrest their course, whether of a public or a private character, whether from the Christian benevolence of individuals or the humane policy of Government, had utterly failed. Nothing could impede the downward progress of these unfortunate nations toward extinction. The problem was to resuscitate their character; to give them new wants and new desires; and the way to do this was to give them new relations and new hopes. With a view to this end, the committee proposed that we should say to the Indians, each of your tribes shall govern themselves; we will not interfere, save to give effect to your determinations. This would create new hopes within them; this would bring them amicably together; this would induce them to consult for their common welfare; this would lead to an interchange of opinions. It would call up and call out the Indian mind. Hitherto the Indian has felt himself to be a degraded being. He has taken it for granted that he never can equal the white man. But this bill said to him, you shall have

rights; you shall have a country; you shall have a government; and when the white man enters the bounds of your tribe, he shall be under the government of the tribe. This was calculated to sooth his breast and elevate his feelings. It gave him something to live for; something to strive after. Such might be expected to be the effect, and such was the effect in fact. The provisions of the bill had been laid before the Indians, not before half-breeds, but before men who had not a drop of white blood in their veins, and the plan had received their cordial and their unanimous assent.

The great change had already passed. The Indians of our country had ceased to be hunters; they were no longer predatory wanderers; they had passed out of the state of savageism. In two, at least, of their tribes, physical strength had ceased to have the dominion, and was itself under the control of intelligence. This was a great step. It was the first, and it prepared for others. This bill proposed another great step in their progress, and none desired to witness their progress toward confirmed happiness more sincerely or more fervently than those who had prepared and brought it into the House. His friend from Vermont, the chairman of the committee, [Mr. H. Everett,] had labored in this cause day and night; he had gone to all sources of information, and he had imbodied more in the report he had drawn up than had ever before been presented to the House. Mr. G. felt it to be his duty to say this, in his place, before that body. Why did not the gentleman who objected so strenuously to the bill, propose a better? Should it become a law, was it to remain unalterable? Would it not be subject to amendment, as experience might dictate? The governor and secretary of the Territory would be bound to keep a record of all their proceedings; and that record would come up to Congress. The House would know, from session to session, all that was done. And if oppression was perpetrated or attempted, it could not escape the vigilance of those who were so much interested in the welfare of the tribes, and would receive prompt arrest and condign punishment.

Mr. G. begged the pardon of the House for having detained them longer than he expected. The subject was full of interest; but, if it were long debated, the bill must be lost. If, however, it was in so crude and undigested a state that it could not pass, be it so; let it be rejected.

Mr. ARCHER said he did not consider this as a fit occasion to go into a full discussion of the great questions involved in this bill. He confessed he had no notion that any such bill had been prepared by the committee. He was well aware that there was now no time to enter into a full and mature consideration of its provisions; yet he could not forbear a brief effort to enforce what had been said with so much propriety and effect by the gentleman from Ohio, [Mr. Vinton,] and his friend from Massachusetts, [Mr. Adams.] He considered the bill as of so high a character that its consideration ought to be postponed to the next session. It was certainly one of the most important which had been presented to the House this session. Did the bill propose to establish a government for the Indian tribes? No: its practical purpose was to establish and enforce the Government of the United States within the sacred territory set apart as the exclusive abode of those tribes. The country had long been agitated by the general subject of our Indian affairs. Great and colorable imputations had been thrown upon the Government for its treatment of these aboriginal inhabitants of our soil. It had been loudly asserted that we had invaded their rights of property and independence. To rescue the national honor, and vindicate our faith, we had pledged ourselves to send them across the great Western water, and there to establish them upon a territory to be exclusively and for ever their own. We had pledged ourselves that they should enjoy a real national independence. But was there the slightest shadow of this in the present bill? What had been the decision of the Supreme Court upon the appeal of the Indians from our claim of jurisdiction? It was, that the Indians could not maintain the ground they had assumed, because they were in a state of pupilage to this Government: that they were not strictly citizens, but held a subordinate relation. Yet, to atone for what many considered as an unjustifiable seizure of their property, the country had promised them an equivalent in lands, and the possession, as he had said, of a real, *bona fide*, national independence. But what was the government set up by this bill? A government of the Indian tribes over themselves? No; it was the Government of the United States over them; and in a form which had well been characterized, by the gentleman from Ohio, as the very worst form of despotism. It was a military government, and of the worst kind. And this was what was proposed to rescue the national fame from the grievous imputations which had been cast upon it at home and abroad. Mr. A. had last year heard it said, with pain, though not altogether with incredulity, that all pledges given to the Indian tribes were illusory and vain; that, whenever it might suit the interests of the border settlers, their lands would be seized and their rights divested. He had not then thought so soon to see what he now was compelled to witness, an attempt to seize, not upon the Indian land, but upon the Indian people, and to subject them to slavery and a military despotism. It would have been bad enough had the plan been only to subject them to what we called a territorial government, but the bill went further than this; it prepared for them a government of bayonets, despotic in its form, and wholly anomalous in the history of the world.

An independent nation must have at least some rights, but here a governor and his secretary were to rule at their pleasure. It most resembled the provincial government of the British crown. It allowed the Indians some subordinate rights, but it seized upon the whole of the supreme power, and established in the hands of a single man the right to put down every thing this mock council of the Indians might presume to enact. He could by a word supplant the whole. The best analogy to their condition was found in the provinces of the Roman empire, where a proconsul exercised whatever powers he chose to assume. This governor, the creature of the executive pleasure, the instrument and tool of the executive will, would realize in this age, and on these shores, all that rendered the very idea of proconsular despotism infamous in the old world. But, formidable as these objections to the bill undoubtedly were, there was another of its provisions which struck him as still more so. The bill called the government it created a territorial government. Be it so. If it was, then this Territory would possess the right, in due time, to come to this House and demand to be admitted as an equal and a sovereign member of our political confederacy. It might be because he was a Southron, but he felt disposed to dispute this right at the threshold. It was a right to introduce a foreign nation, uncongenial to ourselves, into our political household. Did any gentleman believe the American people would ever consent to admit the Indian tribes as confederate equals with ourselves? If such a thought had been suggested in the convention which framed our constitution, what sort of reception would it have met with? Was it seriously contemplated to introduce all the Indian tribes from our frontier to the mouth of the Columbia river, as members of our confederacy? But this led to another question infinitely more serious. If it was in the power of the gentleman from Vermont to add to our Union men of blood and color alien to the people of the United States, where was that right to stop? Why not introduce our brethren of Cuba and Hayti? There was an infant

colony in Canada, formed of free blacks; what was to hinder them, too, from being received into our arms? And did gentlemen flatter themselves with the belief that the South would hear of measures like these? It might perhaps be that, in the gentleman's own State, there were many who would exult over such a consummation; but did not the gentleman know that such a proposal would bring the Union of these States to the brink of a precipice? He knew the feelings of that gentleman to be humane and generous; would the gentleman advocate a plan for the good of the Indians which compromited the peace of this country? Yet Mr. A. could not see how the application of other tribes, of whatever color, or however unfit to participate in our institutions, could be consistently refused, after we had once admitted Indian legislators into that hall and an Indian State into our confederacy. If the present plan of colonization (of which he was the zealous advocate, and which, he thanked God, was in a train of triumphant progress,) should happily succeed, and a deputation from Liberia should come to Congress, and, pleading their origin from our own shores, their possession of the same tongue, and enjoyment of similar political institutions, should ask to be received to the fraternal embrace, with what arguments were they to be met, and on what ground repelled? You have granted this privilege to the copper colored tribes beyond the Mississippi, can you now deny it to the deeper colored race who sprang from your own soil? It might be as great an advantage to have a State in Africa, and a State in Cuba, and a State in Canada, as a State at the foot of the Rocky mountains. He would be glad to know what answer the gentleman from Vermont would return to such an application.

Mr. A. concluded by invoking all southern men, and appealing to all northern men, not to attempt to imbue the councils of our nation with a wild and visionary fanaticism, as mischievous in practice as it might be benevolent in theory and speculation. Once let such seed be sown, and the crop would in the end be confusion, anarchy, and blood.

Mr. A. concluded by moving to lay the bill upon the table.

After some hesitation, he consented to withdraw the motion, at the request of Mr. WAYNE.

Amidst loud cries for the question, and a contest of several gentlemen for the floor,

Mr. H. EVERETT, having obtained it, said that he claimed the floor merely for the purpose of reminding the opponents of the bill, and reminding the House, before they passed upon its fate, that no Indian tribe could be compelled to subject themselves to its effects; no tribe could be compelled to enter into the confederacy to which it referred.

Mr. WAYNE said that he had never known any scheme of enlightened benevolence in his life which had not met with very strenuous opposition, even from good men; and the zeal which animated that opposition was often in exact proportion to their misconception of the thing opposed. Now, with the most entire respect for the honorable gentlemen from Massachusetts and from Virginia, who had addressed the House in opposition to this bill, [Mr. ADAMS and Mr. ARCHER,] he must be permitted to think that they had entirely misconceived the provisions as well as the extent and spirit of the bill reported from the Indian committee. Its object and its spirit were in entire accordance with what had been adopted as the existing policy of this country towards the Indian tribes, and which had given rise to a succession of benevolent projects for their good, adopted at successive sessions of Congress for years past. This Government had at the present time treaty stipulations with about 170,000 Indians east of the Mississippi, and as many as 160,000 more in the different Territories. This bill went to set apart a certain portion of territory for the purpose of congregating all the tribes now scattered abroad, and giving them the power, by their own voluntary action, of forming therein a government of their own. Where, then, was the coercion, where the Prætorian tyranny of which the gentleman from Virginia had spoken with so much indignant feeling? It gave to Indian tribes, with whom we were under the obligation of solemn public treaties, an opportunity of entering, if they considered it most for their interest to do so, into a confederacy for their mutual advantage; to prevent the recurrence of private wars and civil feuds and strifes among themselves, and thereby to obviate the necessity of any forcible interposition of the power of the United States in their concerns. This was the whole end and scope of the bill. Where, then, was the military despotism of which the House had heard so much? Mr. W. must attribute the ardor with which the gentleman had spoken, and the strange exaggerated view he had taken of the dangers of the plan, to the generous fears of a good heart throbbing with the love of liberty. As to the constitutional question which had been mooted, he must confess he was never more surprised than when he heard such a doubt proceed from such a source. Did not the gentleman from Massachusetts know that the country thus to be set apart by the bill was a part and portion of that United States territory over which Congress, and Congress alone, had power and jurisdiction? Had not Congress, by act after act, disposed of a portion of its territory to the Choctaws, and other portions of it to the Cherokees? And if the House had power to set apart one portion, might it not set apart another, though of greater extent? The only question, it seemed to him, was, whether the bill did not assign too large a territory to the object in view. There were 40 or 50 tribes, containing, in all, a population of about 160,000. They claimed the enjoyment of this territory on the ground of treaty engagement. The land belonged to the Government: we had paid millions of dollars for it. Yet he was told of constitutional objections; and he heard an appeal addressed to all southern men to hasten to the rescue. He could not say, as some gentlemen had done, that he did not know of the existence of such a bill till half an hour ago; nor could he think there was any ground for calling upon the South, as if the constitution were in danger. He was told that, if this bill should pass, the Government would soon have other territories of a similar kind in Cuba and in Canada. It might be so: but he presumed we must first get possession of those countries. We were now legislating for a portion of our own land, and not for the territories of a foreign Power. The condition of the Indians was singular, and diverse from all others. This bill made an effort to put them in possession of something like political liberty. But the exercise of it was left wholly optional with themselves. They might enter the confederacy if they pleased, and if they pleased they might abstain. Perhaps the bill did not go quite to the extent which some gentlemen desired, but the effect of such an experiment would be to enlighten these unfortunate people, and, by exhibiting before their view the benefits of something like a regular government of their own, overcome the fears and prejudices they entertained, and, by once making a beginning, to induce by degrees other tribes to unite with those who had ventured upon the trial. But great objection had been made to the idea of admitting this Territory as a new State into the Union. Was the constitutional difficulty any greater than had been overcome in the cases of Florida and of Louisiana? There was a treaty stipulation that they might become States in the Union, though they had formed no part of our own soil: what, then, hindered us from agreeing to a similar stipulation in the case of territories which did consist of our own soil? The power to admit them was unquestionable. The expediency of doing so was a dif-

ferent question. The bill allowed the Indians to organize a government; but it was not by the action of the United States alone that it could become either a Territory, in the technical sense of that word, or a State. If the bill contemplated at once to erect these Indian lands into a Territory, in that sense, there might be something more in the objection: but it did no such thing. Whether it should or not become a Territory hereafter, was a question hereafter to be settled. The Indians never could become such, unless by their own consent, and upon their own application. All that the bill did in this respect was to secure to them the enjoyment of the whole of a certain portion of our public land. But he was told that, if we legalize one color, we might legalize another. If we receive red men, we might hereafter receive black men also; and, on this ground, an appeal had been made to the feelings of the South. The appeal was no doubt well intended; but it implied an ignorance of the condition of our domestic slaves which he had not expected to find in any member of that House. The gentlemen could not but be aware that our slaves had no political relations, no civil rights; nor could they be congregated and erected into a State or Territory, without an open violation of the compact under which the Southern States had entered the Union, and an immediate dissolution of the confederacy of the States.

There was not time, Mr. W. observed, for him to go further, as he could have wished to do; he would, in conclusion, make this declaration in his place—that, were he called upon to choose of what measure he would rather be known as the author, either in the present Congress or in preceding Congresses, with the hope of carrying his name down with blessings to a late posterity, he would choose this bill.

Mr. FILLMORE was disposed to support the bill, but had difficulties as to the right of the House to pass it. It was not properly an act of legislation, as it only made proposals to the Indians, which they might accept or reject. In fact, it approached nearer to an act of the treaty-making power, although in a form which would not, as other treaties did, require the assent of two-thirds ot the Senate for its confirmation.

Mr. WILLIAMS, to prevent further consumption of time in debate, moved to lay the bill on the table.

Mr. H. EVERETT asked the yeas and nays, but the House refused to order them; and the motion was carried without a count.

So the bill to establish a Western (Indian) Territory was laid upon the table; from which position it was not removed during the further progress of the session, and was, of course, lost.

CREEK TREATY BILL.

On motion of Mr. H. EVERETT, the House went into Committee of the Whole, Mr. Casey in the chair, on "the bill to carry into full effect the fourth article of the treaty of the eighth of January, eighteen hundred and twenty-one, with the Creek nation of Indians, so far as relates to the claims of citizens of Georgia against said Indians, prior to eighteen hundred and two."

Mr. WILDE went into a general explanation of the grounds of the bill.

Mr. ADAMS, of Massachusetts, inquired of him how often these claims had been paid?

Mr. WILDE replied, never.

Mr. ADAMS explained the reason of his question, and expressed his belief that large sums of money had already been appropriated on this subject, and, as he believed, for the satisfaction of a part of these very claims.

A long debate ensued, which occupied the House till nine o'clock.

The bill was explained and defended by Messrs. Wilde, Lewis, Gilmer, Jones, Wayne, and Foster, and opposed by Messrs. Adams, H. Everett, Huntington of Connecticut, Fillmore, Mann, Parker Stewart, Hardin, Harper of Pennsylvania, and McKay.

Mr. MANN moved to strike out that clause of the bill which allowed interest on the claims.

Mr. ADAMS moved to lay the bill on the table; on which motion the yeas were 64, the nays 82.

A motion was made to postpone the bill.

Mr. PATTON proposed to amend Mr. Mann's amendment by striking out the 2d section of the bill, and modifying the allowance of interest; which was rejected: Ayes 63, noes 67.

Mr. HUBBARD then moved to amend the bill by striking all out after the enacting clause, and substituting a different bill, which went greatly to restrict the extent of the claims to be allowed.

This amendment was rejected, and the bill was at length ordered to its third reading, by yeas and nays, as follows: Yeas 82, nays 49.

APPROPRIATION BILLS.

The appropriation bill for the civil and diplomatic expenses of the United States, which had been received from the Senate, was referred to the Committee of Ways and Means, for the purpose of considering the amendments made by the Senate thereto.

An amendment proposed by the Senate to the Indian annuties bill was concurred in.

The bill repealing provisos in an act to alter and amend an act imposing duties on imports was postponed; and then the House adjourned.

Thursday, June 26.

Mr. C. P. WHITE, from the Committee on Naval Affairs, reported a resolution to have this day set apart for the consideration of bills from that committee.

Objections having been made,

Mr. W. moved a suspension of the rule, to enable the resolution to be considered.

Mr. SELDEN said he had made several ineffectual attempts hitherto to get up the bill, reported long since, making an appropriation for the improvement of the Hudson river. He now requested that his colleague would include that bill, as a modification to his motion to suspend, that it might be progressed with.

The House refused to suspend the rule: Ayes 50, (not two-thirds.)

Mr. CHINN moved a similar suspension of the rule, for the purpose of taking up three bills in relation to the District of Columbia, viz: to complete the improvements of the Pennsylvania avenue; for the relief of the city of Washington; and for the city of Alexandria.

Mr. LYON moved to amend by including the bill for the construction of roads in Michigan; and

Mr. MERCER moved that the bill in relation to the Washington bridge should be also included.

Mr. LYON having withdrawn his amendment,

Mr. POLK opposed the motion.

The House refused to suspend the rule: Ayes 71, noes 47; thereupon,

Mr. POLK moved that the House should suspend the rule for the purpose of taking up, in Committee of the Whole on the state of the Union, the appropriation bills; and, finally, the motion of Mr. P. having prevailed, the House resolved itself into a Committee of the Whole on the state of the Union, Mr. Speight in the chair, and took up the bill to carry into effect certain Indian treaties, which was debated at length by Messrs. McKay, Sevier, Whittlesey of Ohio, Williams; and, after various amendments thereto were proposed by Mr. McKin-

LEY and Mr. POLK, and agreed to, the bill was then laid aside, and

The general appropriation bill, with the amendments thereto, from the Senate, was then taken up; which was also debated at some length, by Messrs. HARPER, SELDEN, WATMOUGH, SUTHERLAND, GARLAND, POLK, McKIM, WHITTLESEY, McKINLEY, McKAY, WILDE, and WILLIAMS.

The amendments having been concurred in, with the exception of one substituting $2,400 instead of $1,600, for compensation to the Florida judges, as proposed by the House, and which was disagreed to,

Mr. POLK moved an amendment to an amendment of the Senate, the object of which was to appropriate thirty-five thousand dollars, in addition to former appropriation bills, for the contingent fund of the House of Representatives; which was agreed to.

The committee thereupon rose, and reported the bills and amendments to the House.

The amendments to the bill to carry into effect certain Indian treaties were then concurred in by the House, and having been ordered to be engrossed for a third reading, the bill was read a third time, passed, and sent to the Senate for concurrence.

The amendments agreed to in committee on the general appropriation bill were then concurred in by the House, as well as the disagreement of the Committee of the Whole to the Senate's amendment for the pay of the judges in the Territory of Florida.

Mr. LINCOLN rose to protest against the haste with which the bill was hurried through the House, after the understanding that the House had gone into committee under the pledge that this latter bill should not be pressed until after the amendments were printed.

Mr. POLK dwelt upon the shortness of time which the House had to act upon the various bills before it, and said that he had been under a mistake as to the time within which he supposed that the amendments could be printed.

After a remark or two from Mr. McKAY and Mr. WHITTLESEY, requesting that the bill should be postponed until to-morrow,

Mr. POLK declined.

Mr. McKINLEY objected to an amendment in the third section of the bill (respecting the payment by collectors in bills at par) as a novel and useless measure.

Mr. DENNY defended it, as likely to do good, and incapable of producing evil.

The House concurred in the amendment.

On the item of allowing Mr. Potter's pay,

Opposition was made to it by Mr. McKINLEY; who was answered by Messrs. PEARCE, ADAMS of Massachusetts, and BURGES; when the item was agreed to by yeas and nays, as follows: Yeas 88, nays 56.

The House then took a recess till half past four.

EVENING SESSION.

At half past four o'clock the House resumed its sitting; and, on motion of Mr. ARCHER, went into Committee of the Whole, Mr. WARD in the chair, and took up the bill to carry into effect a convention between the United States and Spain, which was read by sections, and aid aside to be reported to the House.

The committee then proceeded to the bill to enable the Secretary of State to purchase the books and papers of General Washington.

Mr. PEARSON, of New York, moved to amend the bill by striking out $25,000 and inserting $35,000.

Mr. WILDE described the papers to be purchased, (which consist of upwards of two hundred manuscript volumes, in folio, chronologically arranged, and strongly bound.) Among other interesting papers, these volumes contained duplicate lists of all the officers of the American army who held their commissions at the time the army was disbanded. As the only other copy of these lists had been consumed in the destruction of the War Office, they now furnished the only means of checking false claims to pensions, several of which, to a large amount, had already been detected by a resort to these papers, when no other means of resisting them was extant. The Government had thus already saved to itself a large proportion of the money asked for these manuscripts; so that, on this account, as well as for all the other obvious reasons, these papers were invaluable to the country.

Mr. JARVIS resisted the amendment with warmth. In his part of the country, a bargain was a bargain. The owner of these papers had agreed to take $25,000; and now, because they were found valuable to the country, it was attempted to exact $10,000 more.

Mr. MANN, though he admitted the value of the papers, wished to know more distinctly what they contained.

Mr. ARCHER referred him to the report of the committee who had brought in the bill, and which was read at the Clerk's table.

Mr. WAYNE vindicated the owner of these papers from the imputation of extortion thrown out by Mr. JARVIS. The amendment was the spontaneous act of the committee themselves, and had been moved without his privity or counsel.

Mr. REED bore witness to the value of these papers in saving the Government from the payment of fraudulent claims at the Pension Office.

Mr. PARKER resisted the amendment, contending that, strictly speaking, these papers, or a large proportion of them, were not the private property of the commander-in-chief, but in truth belonged to the Government. He would not, however, object to paying the amount first asked for them, but was utterly opposed to increasing it. He was very sure that the pay-rolls and other papers of the army would be willingly surrendered by General Washington, were he now in life, without any pecuniary compensation.

Mr. HAWKINS, of North Carolina, proposed to reduce the amount to $15,000; but this motion was not now in order.

The question was then put on the amendment proposed by Mr. PEARSON, and negatived: Ayes 51, noes 89.

No further amendment being proposed, the bill was laid aside; and

The committee proceeded to consider the bill to purchase live oak frames for the frigate Paul Jones and the sloop of war Levant, and for other purposes.

Mr. WHITE, of New York, chairman of the Committee on Naval Affairs, who had reported the bill, explained and defended its provisions, as did also Mr. WATMOUGH, from the same committee, in reply to

Mr. PEARCE, of Rhode Island, who complained warmly of the continual appropriations for the navy yards at Boston and Brooklyn, although those points had not been recognised as the permanent location for a great naval depot. By and by the House would hear the argument that those places must be preferred to all competitors, because such large sums of money had there been vested in buildings and improvements. He moved to strike out the appropriation of $12,000 for Brooklyn; but it was negatived.

Mr. MASON, of Virginia, moved an amendment, proposing an appropriation for the erection of a marine hospital at City Point, which was the head of navigation for large vessels on James river, and where they lay waiting for their cargoes from Richmond and Petersburg.

Mr. PEARCE resisted the amendment, as inappropriate to a naval bill. Such a hospital pertained to the merchant service; and, if this amendment were adopted, he should move a similar one for Newport.

Mr. MASON thereupon withdrew the amendment.

The committee next took up the bill to regulate the pay of the navy.

Mr. WATMOUGH dwelt with warmth upon the importance and value of this bill to the improvement of the naval service, and invoked for it the attention which its importance demands. He did not think the discussion would occupy more than two hours.

Mr. ELLSWORTH thought it would consume at least two days.

Mr. McKAY moved that the bill be postponed.

After some conversation, it was agreed not to consider the bill at this time, but suffer it to lie over till the next session.

The committee then took up a bill to rebuild the frigate Congress, which, not being amended, was laid aside to be reported.

The next bill considered was "A bill to provide for constructing three steam batteries;" which was in like manner laid aside.

The committee then proceeded to the bill establishing rations for the navy.

Mr. WATMOUGH moved that it be postponed.

Mr. PARKER hoped not. He called for the reading of the bill. It was read, and its culinary details about pickles, cranberries, rice, and cheese, occasioned much laughter in the House, (insomuch that the Clerk himself caught the infection, and was with difficulty able to proceed.)

Mr. P. said he was pleased to see the House in such a good humor, and hoped they would continue so until they had passed the bill. He them explained why this particular feature of the general system of improvement had been selected and placed in a distinct bill. It was mainly with a design to second the laudable efforts of the Secretary of the Navy in discouraging the use of ardent spirits among our sailors, by allowing them substitutes more conducive to their health, comfort, and morals.

Mr. BURGES, admitting the great importance of the subject, regretted that it should have been put off till within a few hours of the close of the session. He was opposed to any thing like precipitation in attempting so great a change in the habits of our tars. He especially dreaded any measure in the form of positive prohibition, lest it should produce reaction, and only confirm the evil which it sought to remove.

Mr. WATMOUGH, with some warmth, objected to the consideration of the bill. He said the gentleman from New Jersey had picked out this particular item concerning rations from the general system of revised laws for the navy, which the naval committee had resolved not to touch. It could not be essential that such a measure should be brought forward at the present moment, nor did he consider it at any time expedient forcibly to deprive our Jacks of their grog. The bill had been brought forward in direct opposition to the opinions of the committee.

Mr. PARKER said he should admit this to be true, if he did not personally know the contrary to be the fact. This very bill had been brought before the committee. It was a part of the very code, the origination of which the gentleman had claimed, and which, if it were so, reflected great credit upon the gentleman. Would he object to this bill because it carried into effect a part of his own plan? Or was it because the bill had been brought forward by Mr. P. He repeated that the bill had been approved by the committee, and he would go further, and state that it was approved by the Secretary, with whom he had had personal intercourse on the subject. If there was a single other member of the naval committee that would bear out the assertion of his colleague, he might admit himself to be in error. But the committee had recommended the provisions of the bill, and directed it to be reported.

Mr. WATMOUGH said it was with some difficulty that he brought himself to entertain any discussion of this matter. The gentleman from New Jersey might conceive that he had a warrant in his gray hairs for making assertions which had such a bearing on the veracity of other gentlemen, and the gentleman was perfectly safe in whatever he chose to say. If, at a time when Mr. W. had not been present, the gentleman had picked out this part of the general bill, with a view to bringing it forward by itself just at the close of so long a session, he had not been aware of any assent of the committee to such a proceeding. He would not appeal to his colleagues on the committee. He stated it as a fact that the committee had expressly resolved not to bring the subject forward, and press it at this time. He repeated, however, that the gentleman was safe, perfectly safe, if he chose to state the contrary.

Mr. PATTON here interposed, after some confusion, and stated that further explanations between the gentlemen were needless, and tended only to produce a greater aggravation of feeling between them. They were, in fact, both right and both wrong. The gentleman from Pennsylvania was perfectly right in saying that the committee had resolved not to take up the general subject, and insist upon its consideration at this time; and the gentleman from New Jersey was equally right in stating that he had brought forward the present bill in committee; that it had there been discussed, and determined that the gentleman might bring forward the bill, but that the members of the committee would not hold themselves pledged to support it. For himself, he was decidedly opposed to the bill. He was not disposed to empower the commanders of our public vessels to compel Jack to part with his grog, and eat double rations of pickles or cheese. He moved that the bill be postponed; which motion, after a good-tempered explanation on the part of Mr. PARKER, was agreed to by the House; and the bill was postponed accordingly.

The committee having then taken up a bill to improve the navigation of the Hudson river,

Mr. HUNTINGTON, of Connecticut, moved to amend it by inserting an appropriation of $25,000 to improve the navigation of the river Thames, between Norwich and New London. He said the appropriation stood precisely on the same footing, and had received the same previous sanction with that in the bill. Three reports had been made in its favor, and it had twice passed the House, but, in consequence of other items in the bill, had fallen under the presidential veto.

The amendment was rejected.

Mr. SUTHERLAND, chairman of the Committee on Commerce, said that he had reportod another harbor bill, and had been somewhat at a loss what course to pursue in respect to it; but had finally concluded to move it in the form of an amendment to the present bill.

A question of order was raised and discussed on this motion, which resulted in Mr. S.'s withdrawing his amendment.

Mr. ELLSWORTH now offered an amendment, proposing an appropriation to deepen the harbor at the mouth of Connecticut river, and sustained the amendment by a short speech, in which he set forth the importance of such an improvement in preserving, not only property embarked in the coasting trade, but the lives of seamen exposed to storms in the sound.

The amendment was advocated by Messrs. HUNTINGTON, MERCER, and SUTHERLAND, and opposed by Mr. CROCKETT, to whom Mr. ELLSWORTH briefly replied.

Mr. HARDIN also opposed it, protesting against bargains, &c.

The amendment was then rejected.

The committee then passed through a bill for the benefit of Nathaniel Tyler, a revolutionary soldier, and pro-

ceeded to consider the bill granting additional lands for the satisfaction of revolutionary land warrants.

Mr. LEAVITT, of Ohio, moved to amend the bill by striking out 150,000 and inserting 500,000 acres, on the ground that, since the bill had been reported, a large amount of warrants had come in, and more were appearing daily.

Mr. HARDIN went into an explanation of the origin of these warrants, and the manner in which they had been satisfied; when the amendment was agreed to.

The committee having gone through the bills referred to it, were about to rise, when,

Mr. WHITE, of Louisiana, wished them to consider a bill to prevent explosions by steam. But this motion did not prevail, and the committee rose and reported to the House the bills which had been successively considered.

In the House, after a struggle about the order of business, it was agreed first to take up such bills as had not yet been ordered to their third reading.

Accordingly, the House took up the fortification bill; and the question being on the motion to strike out the enacting clause, it was negatived.

The question next recurring on Mr. POLK's motion to strike out the appropriation of 100,000 dollars for a fort upon George's island, the ayes were 64, the noes 55.

The CHAIR declared that no quorum had voted.

Mr. POLK insisted that it was a quorum, because vacant seats were not to be counted.

The CHAIR interpreted the rule otherwise, and decided that a quorum must consist of one-half the entire number of the House, without regarding vacancies that had occurred.

Mr. GORHAM asked the yeas and nays, and moved the previous question; but the House refused to second it.

Mr. HARDIN moved to lay the bill on the table; but consented to withdraw the motion, when a debate occurred, the counterpart of that which had taken place in Committee of the Whole.

The amendment was resisted by Messrs. MOORE, WILDE, SELDEN, E. EVERETT, GORHAM, VINTON, REED, CROCKETT, and BURGES; and supported by Messrs. POLK, MCKAY, and CAMBRELENG; when,

The question being taken, it was decided in the negative, by yeas and nays, as follows: Yeas 73, nays 80.

So the House refused to strike out.

Mr. POLK then moved to strike out the item of 100,000 dollars for the fort on Throg's neck. This was also negatived: Yeas 65, nays 80.

Mr. POLK then moved to strike out the item for a fort at Grande Terre, Louisiana. This likewise was negatived, without a count.

Mr. McKIM moved an amendment, appropriating 25,000 dollars to commence forts of the first and second class at Baltimore.

Mr. McK. explained the necessity for these fortifications. Notwithstanding the vast amount of property in the city and harbor of Baltimore, that port remained precisely in the same state as in 1812, not a dollar having been expended since that time. These works had been proposed in the general system of fortifications reported and adopted fifteen years ago. He had had an interview with the Secretary of War, and the Executive had also been consulted. In both quarters there seemed to be a disposition to proceed with these fortifications, but for a fear that the finances of the country might fall short.

Mr. POLK opposed the amendment, and it was rejected.

Mr. PEARCE, of Rhode Island, moved the previous question, but withdrew the motion, and the bill was ordered to its third reading.

After another struggle as to the order of business, the House took up the light-house bill, which was advocated with great spirit by Mr. SUTHERLAND and Mr. WHITTLESEY; and opposed by Messrs. MANN, HAWES, KING, and POLK, on the ground of the great number of light-houses already erected, and the unusually large number now proposed. Calculations were gone into to show the expense of erecting and supporting them.

Mr. POLK moved to lay the bill on the table; but the motion was negatived by yeas and nays: Yeas 40, nays 97, as follows:

YEAS—Messrs. John J. Allen, Beale, Bean, Bockee, Bunch, Carmichael, Coffee, Davenport, Day, Dickinson, Foster, Gholson, Gilmer, Grayson, Griffin, Hardin, James Harper, Hawkins, Hawes, Jarvis, R. M. Johnson, Seaborn Jones, King, Laporte, Luke Lea, Lewis, Lyon, Lytle, Abijah Mann, Joel K. Mann, John Y. Mason, McKinley, Patton, Pinckney, Polk, Ramsay, Schley, Wm. P. Taylor, Van Houten, Wagener—40.

NAYS—Messrs. John Q. Adams, John Adams, Heman Allen, William Allen, Barber, Baylies, Beardsley, Binney, Bodle, Boon, Brown, Bull, Cage, Cambreleng, Casey, Chambers, Chaney, Chinn, Samuel Clark, Corwin, Coulter, Denny, Dunlap, Ellsworth, Evans, E. Everett, H. Everett, Ewing, Fillmore, Fowler, Philo C. Fuller, William K. Fuller, Fulton, Garland, Gillet, Gorham, Grennell, Joseph Hall, Hiland Hall, Halsey, Hannegan, Joseph M. Harper, Hazeltine, Heath, Howell, Jackson, William C. Johnson, Benjamin Jones, Kavanagh, Kinnard, Lane, Lansing, Thomas Lee, Leavitt, Lincoln, Love, Martindale, Moses Mason, McCarty, McIntire, McKennan, Mercer, Robert Mitchell, Moore, Murphy, Osgood, Page, Parks, Patterson, D. J. Pearce, Pierson, Potts, Reed, Selden, Shinn, Sloane, Smith, Spangler, Steele, Stewart, Stoddert, Sutherland, William Taylor, Philemon Thomas, Tweedy, Vanderpoel, Vinton, Ward, Wardwell, Watmough, Webster, C. P. White, E. D. White, Elisha Whittlesey, Wilde, Wise, Young—97.

So the House refused to lay the bill on the table.

The bill was then ordered to its third reading.

The bill for West Point was then taken up, and explained and defended by Mr. BINNEY.

A motion, made by Mr. SMITH, of Maine, to strike out an item for enlarging one of the buildings, was negatived: Yeas 59, nays 77.

Mr. HAWES renewed in the House the amendments he had proposed in Committee of the Whole, first for discontinuing the establishment, after the present cadets should have been educated, and then for requiring the cadets to serve five years in the army or return the expenses of their education; but

Both the motions of Mr. HAWES were negatived without a count, and the bill was ordered to its engrossment.

The bill to provide for the organization of the Department of Indian Affairs was then read a third time, and passed.

The bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, was also read and passed.

The bill to satisfy the Georgia claims being then at its third reading,

Mr. ADAMS moved to adjourn; which was negatived; when Mr. A. observed that the bill contained the principle that the Government should pay interest in a case where an express treaty stipulation provided that no interest should be allowed, and that the President had vetoed another bill on this very ground; said he was desirous of an opportunity to present his views on this difficulty; and he moved that the further consideration of the bill be postponed till to-morrow; on which motion the ayes were 54, the noes 58.

No quorum having voted, and it being now ten o'clock,

The House adjourned.

FRIDAY, JUNE 27.

After the reception of several memorials, reports from committees, &c.,

Mr. E. EVERETT, from the Committee on the Library, reported a resolution directing that the

STATUE OF MR. JEFFERSON,

presented to Congress by Lieutenant Levy, of the navy, be placed in the square at the eastern front of the Capitol.

Mr. ARCHER said he had some objections to the resolution. He conceived that if Congress desired to have a statue of this distinguished man, it would be more consistent with propriety to procure one for themselves, than to be indebted for it to any person whatever. He had another objection, which was, that as Congress had resolved to erect a statue in honor of the great and good father of his country, the immortal Washington, and which was in progress of execution, none other of any other man should be set up until that duty was performed which they had resolved should be done.

He had learned that this statue of Jefferson was not of that finished order which, if a statue was to be put up at all in the grounds of the Capitol, it ought to be. For these reasons, then, he hoped that the resolution would not be passed; and said he would move to lay it on the table, only that his doing so might prevent some honorable member from replying to his remarks.

Mr. LANE trusted that the House would not reject the resolution merely because the statue had been presented by a lieutenant instead of a commander.

Mr. MERCER concurred in the opinion of his colleague, that it was not a good likeness, and he was opposed to the resolution.

Mr. E. EVERETT would merely remark that, as he had reported the resolution by the instructions of the committee, he would now leave the decision upon it to the House.

Mr. CLAY, of Alabama, remarked that the adoption of the resolution would not prevent them hereafter either erecting another statue, or changing the site that was now contemplated.

The resolution was finally ordered to be engrossed, and was passed: Ayes 69, noes 55.

PORTRAIT OF WASHINGTON.

Mr. JARVIS submitted the following resolution, which was unanimously adopted:

Resolved, That the Clerk of this House be directed to pay to John Vanderlyn, out of the contingent fund of the House, fifteen hundred dollars, as additional compensation for the full length portrait of Washington, executed by him, to be placed in the Hall of Representatives, in pursuance of a resolution of this House of February 17, 1832.

Mr. CHINN rose to state that a bill had been reported from the Senate for the benefit of the City of Washington, and as it was the desire of the Committee on the District to accept it as a substitute for that before the House, he moved that they go into Committee of the Whole thereon. The motion having prevailed,

The House went into committee, Mr. Ward in the chair, considered the bill, and subsequently reported it to the House; after which,

Mr. MASON moved that the House resolve itself again into the Committee of the Whole on the state of the Union, for the purpose of taking up the bill to extend the provisions of the act to relieve from duty iron prepared for and actually laid down on railroads, &c.

Mr. PEARCE moved also the bill for the erection of a marine hospital at Baltimore; and the bill imposing an extra tonnage duty on Spanish vessels.

Mr. ASHLEY moved to include the bill providing for the extension of the national road west of the Mississippi river.

Messrs. LYON, E. EVERETT, and DUNCAN, proposed to include other bills.

The House then resolved itself into a Committee of the Whole on the state of the Union, Mr. Ellsworth in the chair, to consider sundry bills.

The bill to remit the duties on locomotive steam engines, either imported or to be imported, having been taken up,

Mr. MASON moved to amend it, by inserting therein, cast iron wheels bound with wrought iron; upon which a desultory debate arose as to the propriety of encouraging domestic manufactures, and the right to alter the tariff, &c., in which Messrs. Denny, Binney, McKim, Fillmore, Gholson, Burges, Watmough, Cambreleng, P. C. Fuller, Dickerson, Wilde, and McKinley, participated; when, with a view to arrest it,

Mr. LEWIS remarked that, as the debate seemed to be interminable, and as the House had a great deal of business to get through with in a little time, he would move that the bill be laid aside.

On this motion the debate was again resumed by Messrs. Denny and Parker.

Mr. LEWIS finally withdrew the motion to lay the bill aside.

Mr. STEWART, however, renewed it, that the committee might report progress thereon when it should rise.

Mr. WILLIAMS inquired if it was in order to have a bill so disposed of, without final action upon it?

The CHAIR said the motion was in order.

Mr. JONES rose to a point of order; but making no appeal from the decision of the Chair,

The vote on the motion of Mr. Stewart prevailed: Ayes 79, noes 61.

Mr. JONES insisted that the motion was out of order.

Mr. STEWART contended that the objection came too late, the subject having been disposed of.

Mr. JONES maintained that he had made the point of order before the vote was taken.

The CHAIR, after some conversation, decided that Mr. Jones had, under the circumstances, a right to appeal from his decision.

Mr. JONES did appeal, and the committee having sustained the decision of the Chair that the motion was in order, the bill was then laid aside.

The bill to remit the duties upon locomotive steam engines heretofore imported, was then taken up, and also laid aside.

The bill making appropriations for the erection of marine hospitals in the city of Baltimore and other places being taken up,

Mr. McKAY moved to amend it by inserting an item for a marine hospital at City Point, Virginia, and another somewhere in North Carolina; agreed to.

Mr. BURGES moved an amendment for a similar hospital at Providence; which was not agreed to.

Mr. SMITH moved for the establishment of one at Portland; which was carried.

Mr. LYTLE proposed an item appropriating $10,000 to improve the arsenal at Cincinnati; but it was rejected.

The committee then took up the bill in addition to an act passed 13th July, 1832, concerning duty on Spanish vessels, to equalize the discriminating duty imposed on our vessels in Cuba and Porto Rico.

Mr. McKIM opposed the bill, as only going, in effect, to make war upon the tonnage of the United States; which was in no condition to endure any reduction or injury. There were more of our vessels sent to the Havana than of theirs which entered our ports; and Spain would immediately retaliate, as she had done on former occasions. The only way to meet the case was to put the duty on the products of Cuba and Porto Rico.

Mr. PINCKNEY moved to fill the blank with the 1st day of January next, as the day on which the bill was to take effect; which was agreed to.

The bill was then laid aside.

The next bill was for the benefit of W. T. C. Wright, allowing him for his services at the Court of Brazil.

It was slightly amended by Mr. ARCHER, and laid aside.

Mr. MASON now moved again to consider the bill to remit the duties on locomotive engines.

Mr. MASON moved two amendments; which were agreed to.

Mr. DENNY moved to strike out the 2d section of the bill; negatived: Ayes 36, noes 90.

The bill was then laid aside.

Mr. JOHNSON pressed the committee to take up the bill to consider the commissariat; but they refused.

The committee then rose and reported the bill.

Mr. POLK introduced, by consent, a joint resolution suspending the rule which forbids the sending of new bills from one House to the other on the three last days of the session, until 10 o'clock this evening.

Mr. ADAMS opposed it, as unnecessary and absurd. This was not one of the last three days. Sunday was a day of the session; members received their pay for it as for other days; and business had sometimes been done on that day.

After some further discussion, the joint resolution was read three times and passed.

The House then resumed the consideration of the bill providing for the Georgia claims; and

Mr. ADAMS had commenced a speech in opposition to the bill, when, the hour of two having arrived, the House took a recess until four o'clock.

EVENING SESSION.

The House at 4 o'clock resumed its sitting.

Mr. MERCER made an effort to get up the Potomac bridge bill, but without success.

The bill giving the assent of the United States to an arrangement of the boundary line between New York and New Jersey was slightly amended, on motion of Mr. ADAMS, and ordered to its third reading.

Mr. MERCER renewed his motion for the bridge bill, and moved to suspend the rule, but the ayes were 52, (not two-thirds,) and the motion failed.

The House then resumed the consideration of the bill for the payment of certain Georgia claims.

Mr. ADAMS stated at large his objections to the bill, and was replied to by Mr. CAMBRELENG, Mr. BURGES, and Mr. LINCOLN.

The latter gentleman was not in favor of the bill, but differed from his colleague on the question of interest.

Mr. BARBER, of Connecticut, moved the previous question, which was seconded; and the bill was passed by yeas and nays, as follows: Yeas 99, nays 60.

The fortification bill was read a third time and passed.

The light-house bill was read a third time, and the question being on its passage,

Mr. POLK opposed the bill, as going much too far, and incurring a heavy charge on the treasury. He made a statement, showing that appropriations to the amount of twenty-two and a half millions had already passed the House. He demanded the yeas and nays.

Mr. SUTHERLAND replied, observing that Mr. P. had made again his last evening's speech, and if the bill were postponed the House would have it again. The gentleman, he believed, never yet had voted for a light-house.

Mr. ELLSWORTH asked Mr. POLK to point out to which of the light-houses he objected, and not to scare the House with ghosts of expenditure.

Mr. WISE demanded the previous question; which was seconded: Ayes 109.

The question was then put on the passage of the bill, and decided by yeas and nays, as follows: Yeas 105, nays 61.

The bill making appropriations for the Academy at West Point was read a third time and passed: Yeas 119, nays 55.

The bill from the Senate, for the benefit of the city of Washington, being next taken up, Mr. HAWES made a vehement speech in opposition to the bill.

Mr. CHINN said that he had foreseen what would be the consequence of introducing the subject of the canal. He regretted that that subject had been brought into the debate, however delighted he had been in listening to the eloquent appeal of his colleague, [Mr. MERCER,] in relation to the District. Members of Congress were, in fact, its responsible representatives; they represented not office-hunters, not mere sojourners or visiters, but the permanent residents of these ten miles square. As representatives who constitued the sole Legislature of these citizens, it was surely proper and just that Congress should possess and exercise some discretionary power. All other Legislatures had it, and why not the Legislature of the District of Columbia? Were Congress to be prohibited from appropriating one cent directly for their benefit? Surely not. Their citizens were placed in a situation to be commiserated. While they were deprived of the privilege enjoyed by all the citizens of the United States, of having representatives chosen by their own act, and responsible to them, they are charged with a full share of all national burdens; they had to submit to taxation without representation, and would it be contended that Congress was forbidden to allow persons thus situated from participating with the rest of the citizens of the United States in the ordinary benefits of legislation? During the late war they had been subject to the same ratio of direct taxation as all the other people of the Union; and when a large amount of real estate had by them been vested in Congress, in trust, could it have been intended that they were themselves to be excluded from all the benefits resulting from it? Mr. C. insisted that they were entitled to a full and fair participation.

Had Congress made no donation to the new States? By what right was it that they had appropriated enormous amounts of public property for objects of charity or of internal improvement, for the benefit of the people of the West, when a like benefit must be denied to the people of this District? Here was the same fund to draw upon, and here, as there, was a public territory owned by the whole United States, and whose value was to be enhanced by these appropriations. The principle was the same in both cases, and the principle being conceded, the only question was, whether the appropriation was disproportioned and extravagant? He thought it was not. As to the idea that Congress was asked to assume the Holland loan, obtained on account of the canal, it was wholly gratuitous, and directly in the teeth of the report of the committee. The bill proposed to appropriate $60,000 a year, for three years, to release the city from its embarrassment. Was this an assumption of its debts, foreign or domestic? Was this an entering wedge? How could the present Congress by such an act control or bind their successors. Each Congress must stand upon its own responsibility. If the bill were rejected, it would not prevent the next Congress from making just such an appropriation, or a much larger one, nor would the passage of the bill bind them to do so. He thought it was but a fair share of the benefits which had been conferred by the cession of this territory, and he thought the city most fairly entitled to it.

Mr. WARDWELL said that he wished to propose an amendment. He was in favor of the bill, but for a reason directly the opposite of that which had been stated by the gentleman from Virginia. If Mr. W. thought that the stock of the Chesapeake and Ohio canal would ever become as profitable as that gentleman seemed to anticipate, he would not grant the city one farthing; it was because he felt fully persuaded that the sanguine expectations of

that gentleman would never be realized, and that the stock would not pay three per cent. in fifty years, that he was in favor of the bill. His own opinion was that the best mode of relief would be to give them a million of dollars at once, and take the stock off their hands, and thus free the city from the load under which they were now oppressed.

But as they only asked for this $60,000 to pay the interest, he was for giving it. The gentleman from Virginia [Mr. Mercer] had spoke about the rise in price of the stock of the Hudson and Delaware canal, in the State of New York. But he could tell the gentleman that that stock was now below par. It was true that the State had loaned that company $800,000, and the same sort of statements were made then in the New York Legislature as had now been submitted by the eloquent gentleman from Virginia, and yet the very Legislature that made this loan are now censured, as having squandered away the public money, and as not being fit or worthy to govern the State. If there was to be any parallel between the cases, the way to complete it would be to adopt the plan he had suggested—to loan the city a million of dollars, and to take the canal stock as security. This was what New York had done in respect to the Hudson and Delaware Company. Yet, although that company had the consumption of the whole city of New York for its market, the stock had never to this day yielded the interest of the money; neither would the stock of this canal. Its dimensions were too large; the style of expenditure was too extravagant. There had been no economy in the construction, and it never would pay three per cent. In the mean while, what were the people of the city to do? Their taxes were enormous. No community could exist under such a state of things, and he was in favor of giving them the proposed relief.

When Mr. Chinn had concluded,

Mr. MANN said he would make a single remark, in reply to the honorable gentleman of Virginia. He feared the attention of the committee had been diverted from the question before it, by the eloquent appeal of that gentleman. It was not a question whether internal improvements should be carried further, but whether Congress should assume the payment of the debt of the corporation of Washington—a debt created for two or three different objects, amounting to more than $1,500,000. He feared that his previous remarks in opposition to this bill had been misunderstood; he had not intended, by what he had before said, to censure the conduct of the gentlemen who were charged with the management of the concerns of this corporation; he did not now intend to do so, for he was deeply sensible of their condition, and he knew no remedy; it was not for him to propose any. The question now to be determined was, whether it was wise, just, and proper, that Congress should assume the payment of this debt?

It cannot be denied that they will do so, if this bill passes. The report of the committee expresses the hope that the financial condition of the corporation within three years will be different from what it is at present. On what does this hope rest? It is mere hope. What reason have we to indulge such anticipation? I have not examined the act by which the corporation was enabled to borrow this money; but I am told that the President is authorized and required, on a failure of the corporation to pay the interest, to order the sale and conveyance of individual property to meet the deficiency in payment of their foreign debt. It did not appear to him sound policy for the nation to assume this burden. Why should they do so? It was a concern between individuals, with which the people had nothing to do. They ought not to be burdened with the payment of the debts of individuals, whether contracted improvidently or otherwise. He was aware of the zeal with which the honorable member from Virginia [Mr. Mercer] approached the subject of internal improvements—particularly the Chesapeake and Ohio canal; it was an honorable zeal; but it had cost the people $1,000,000 already. A bill was now before the House for another, and the bill under consideration in effect assumes the payment of another already expended. This, Mr. M. said, was more than either justice to the people we represent or liberality could require.

But the gentleman from Virginia reminds me of a precedent in my own State. It is always with reluctance that I speak of my own State on this floor. I remember well, too well, the condition of that State in regard to the Delaware and Hudson Canal Company. The State did loan its credit to that company for $800,000, but not by my consent. I am also reminded that the stock of that company, previously to the aid granted, was very far below par, but afterwards rose into great favor, and far above par; that, in consequence, a great amount of coal has been produced, to great public advantage, and the gentleman predicts further great benefits. I hope his predictions will be realized, yet I cannot estimate the interest of New York in that company, when considered in a fiscal point of view, as of any value. I have understood how that stock was raised above par. It is said that certain persons interested in the coal lands at the termination of that canal had a contract with the company for the sales of those lands for a large price, (I believe $200,000,) whenever the stock should rise to par value.

After this loan by the State to the company, by one of those stock-jobbing operations which have so often disgraced Wall street, this stock was blown up into a bubble above par. This, sir, is the reason why this stock has excited the attention and surprise of the gentleman from Virginia.

Again: Mr. Chairman, I am reminded that the State of New York applied here for aid in the construction of her magnificent works of internal improvement, now so productive as to excite the jealous admiration of her sister States. True, sir, I confess it with humility; and what answer did you give to her application? Did you unlock your treasure, and pour into her lap from your bounty and abundance? No, sir, you told her that you could not favor her with your liberality. The gentleman from Virginia, [Mr. Mercer,] however, argues that the canals in New York and in Europe are productive, and therefore that the Chesapeake and Ohio canal will be profitable. I fear that the gentleman and the public have long labored under a delusion in regard to that subject. Great and productive as those canals are, embracing an extent of shore, from which the tonnage is derived of more than 2,000 miles; a soil, climate, and population unsurpassed by any portion of the continent of the same extent; yet these canals, considered as a mere fiscal operation, have never, until within the last two years, produced a nett income sufficient to pay the interest on the cost of construction. The whole expenditure, up to the period when those canals were navigable in the whole extent, was $11,416,000, (I speak from recollection,) borrowed at an average interest of 5½ per cent., or more than $600,000 annually. The nett proceeds of tolls have not, until recently, equalled this sum. I do not mention this to derogate from the great value and importance of those works, but merely to show their fiscal results. Independent of all pecuniary considerations, those works have ever commanded and received my humble support; but it does not follow that, because those canals are productive, all others will produce like results. If the honorable gentleman from Virginia will cast his eye over the map of the habitable globe, he will not discover another spot where a canal can be constructed with the same hope and prospect of success as from the Hudson to the lakes. All reasoning, therefore, by analogy with these works and their results must prove fallacious and illusory, because the analogy, in extent of shore, fertility of soil, extent, value, and

variety, of resources and productions, will fail. If you go to Europe, and examine the works of ages and their results, you will not find a parallel.

But, sir, is there much propriety in contending that Congress should assume the payment of this million due from this corporation, because the nation has already become the owner of $1,000,000 in the stock of this company? To my mind there is not; and I hope that the subject will commend itself to the careful deliberation of the committee before they agree to charge the country with this debt. I am satisfied, sir, that if we assume to pay the interest on this $1,000,000, we had better provide for paying the principal. For one, I am not prepared for this, and I therefore hope the bill will be rejected.

The previous question was now moved and seconded, the yeas and nays ordered, and the bill passed: Yeas 98, nays 78.

The bill giving the assent of Congress to the compromise between the States of New York and New Jersey, respecting their boundary line, was read a third time and passed.

The bill repealing provisoes in the tariff law, and the bill for the relief of Susan Decatur, were laid upon the table.

The bill for the final adjustment of land claims in Florida and Arkansas having been read,

Mr. CAVE JOHNSON moved an amendment, allowing certain claimants to produce the testimony in favor of their claims before the registers and receivers of the land offices in their districts, to be by them reported to Congress.

Mr. HUNTINGTON and Mr. VINTON made inquiries respecting the lands and claimants on whom the amendment was to operate; and it appearing that the lands were those which had been the subject of alleged notorious frauds,

Mr. VINTON opposed the bill, and moved to lay it on the table; but withdrew his motion to admit explanations by Messrs. C. JOHNSON and SEVIER, who acknowledged the frauds of the individual named, but vindicated the present holders, who had purchased the lands innocently.

Mr. CLAY moved the previous question, but withdrew the motion; whereupon,

Mr. JARVIS moved to lay the bill on the table.

Mr. THOMAS, of Louisiana, asked the yeas and nays on this question; but the House refused to order them, and the bill was laid on the table.

[It was subsequently, on motion of Mr. VINTON, taken up again, that the amendment might be withdrawn; and the bill was then ordered to its third reading.]

The bill authorizing the construction of railroads and canals through lands belonging to the United States being taken up,

Mr. FILLMORE inquired into the nature of its provisions; which were explained by Mr. CLAY.

Mr. MASON moved an amendment, restricting the action of the bill to lands subject to private entry.

Mr. HARDIN opposed the bill *in toto*.

Mr. McKINLEY replied and defended it, and the reputation of the people of Alabama, whose character he considered as having been assailed by the gentleman from Kentucky.

Mr. H. EVERETT objected to some of the provisions of the bill.

Mr. CLAY offered an amendment to meet his objection.

Mr. HARDIN again opposed the bill, as being altogether too loose and unguarded, and moved to lay it on the table; which was agreed to.

A bill to incorporate the Washington Monumental Society, and a joint resolution respecting new paintings in the rotundo of the Capitol, were laid upon the table.

A bill respecting patents and copy-rights was ordered to its third reading.

The bill to prevent the corporations of Washington, Georgetown, and Alexandria, from issuing bank bills of a less denomination than ten dollars, coming up,

Mr. VINTON moved an amendment, to prohibit the sale of lottery tickets in the District, which he had copied from the code of laws prepared for the District with the utmost care, by an able committee.

Mr. WISE moved to lay the bill on the table, but offered to withdraw the motion if Mr. VINTON would withdraw his amendment. He afterwards withdrew his motion and moved the previous question, which was carried; and the bill was then ordered to its third reading.

The bill for the benefit of the city of Alexandria (appropriating one hundred thousand dollars in aid of the Alexandria canal and aqueduct) coming up next in order,

Mr. MASON moved to lay it on the table.

Mr. CHINN demanded the yeas and nays.

Mr. HAWES wished the House to know that the bill gave to Alexandria "one hundred thousand dollars."

Mr. P. THOMAS wished the House also to know that Virginia had given to the United States three hundred thousand dollars, when Alexandria came under the General Government.

The question being put on Mr. MASON's motion, it was decided as follows: Yeas 79, nays 84.

So the House refused to lay the bill on the table.

The question being on its engrossment,

Mr. MILLER opposed the bill. If it were to relieve Alexandria from embarrassment, he should not oppose it. But he would never consent to give this money for such a canal.

Mr. MERCER was confident that, if he could converse with the gentleman for half an hour, he could convince him that he was in error. More than one hundred thousand dollars had already been expended on this work. It had been in progress for two years, and all that was done must be lost if the present appropriation should be refused. He explained the situation of Alexandria in relation to the Chesapeake and Ohio canal; commended the good faith and punctuality with which she had paid up her subscription to that work; and dwelt upon the importance of the aqueduct, especially, as furnishing a secure mode of transmitting the southern mail, even though the bridge might be carried away.

Mr. STEWART moved the previous question, which was seconded, and the bill ordered to its third reading: Yeas 83, nays 81.

The bill to complete the improvement of Pennsylvania avenue was next considered; when

Mr. PARKER moved to strike out the item for cleansing the avenue from dust; but his motion failed, and the bill was ordered to its engrossment.

A number of bills were then successively laid upon the table.

The House then took up the bill to authorize the construction of a bridge across the Potomac, and to repeal all previous acts on the subject.

A motion was made by some member to lay the bill upon the table; but on Mr. MERCER's demanding the yeas and nays, it was withdrawn.

Mr. FILLMORE moved an amendment, proposing that the Secretary of War should settle the accounts of Mr. Dibble, the contractor, who had commenced preparations for constructing the bridge on an expensive plan, now abandoned. Mr. F. warmly sustained this amendment, insisting if it should be refused that individual must be ruined.

Mr. MERCER objected, on the ground that no legal contract had been made with Mr. Dibble. He had given no security, and if he had proceeded on an unauthorized promise, and had consequently suffered loss, he must resort, as other individuals in like cases did, to a memorial

to the House, which would be referred to the Committee on Claims.

Mr. Fillmore, Mr. Blair, Mr. Lane, Mr. Wardwell, Mr. McKennan, and Mr. Clay, all sustained the amendment with zeal, as being demanded by every consideration of justice and equity, and declaring that, if it should be negatived, they must vote against the bill.

Explanations took place between Messrs. Blair, Vinton, Stewart, and W. Cost Johnson, as to what transpired in committee as to this allowance to Mr. Dibble.

Mr. MERCER declared it to be his opinion that the individual had not a shadow of right to compensation. He had acted on his own risk, without authority, and had never consummated the contract he proposed, by giving any security for its fulfilment.

The question being put, the amendment was carried without a count, and the bill was then ordered to be engrossed for its third reading.

The bill making appropriation for public buildings; the bill to carry into effect the convention between the United States and Spain; the bill to enable the Secretary of State to purchase the Washington papers; the bill to purchase frames for a frigate and schooner; the bill authorizing the President to direct transfers of appropriation in the naval service; the bill to provide for rebuilding the frigate Congress; were severally ordered to their third reading.

The bill for the improvement of the Hudson river, New York, coming up—

A motion was made to lay it on the table, but was negatived: Yeas 69, nays 84.

Mr. HUNTINGTON and Mr. ELLSWORTH respectively proposed again the amendments which they had moved in Committee of the Whole, for the improvement of the river Thames and of the mouth of the Connecticut river; but both amendments were rejected.

The bill was ordered to its third reading by yeas and nays, as follows: Yeas 92, nays 72.

Mr. POLK proposed that there be sent to the Senate to-morrow a written schedule, stating the titles of all the bills which were ready for the action of that body, having been previously acted on in the House, and stated that he had such a list prepared.

Mr. ADAMS and Mr. HARDIN pressed for an adjournment; against which Mr. HEATH loudly remonstrated. But the motion prevailed; and the House thereupon, at half past 10 o'clock, adjourned.

Saturday, June 28.

Mr. POLK asked the consent of the House to submit a joint resolution, to rescind the rule, so as to enable such bills as had already been passed to be sent from either House until 10 o'clock; which, he said, it was necessary to have, the Senate not having returned the joint resolution sent them yesterday.

Mr. SELDEN remarked that, as the effect of such a resolution being adopted would be to destroy all the bills that were ordered to be engrossed for a third reading, he must object.

Mr. POLK said that these bills could be provided for by another joint resolution.

Mr. E. EVERETT said, with that understanding, he would not object.

The House, on motion of Mr. POLK, having suspended the rule,

Mr. J. Q. ADAMS remarked that it was out of order, and was inconsistent with that self-respect the House ought to have, to adopt a resolution of this description, whilst the former one had not yet been acted upon by the other House.

The resolution having been read,

Mr. HAWES moved to strike out all after resolved, and insert "that the resolution of Congress to adjourn on the 30th June be rescinded, that Congress shall adjourn on the 2d July, and that no business shall be sent from either House to the other after this day."

Mr. H. remarked that such a course was not without precedent.

Mr. BEARDSLEY hoped, however, that it was a precedent that would not be followed.

Mr. RICHARD M. JOHNSON called for the yeas and nays.

Mr. POLK moved the previous question. A quorum not having voted thereon,

Mr. HARDIN moved a call of the House; whereupon, the motion for the previous question, and the amendment submitted by Mr. Hawes, were withdrawn, and the resolution offered by Mr. Polk was adopted.

Mr. R. M. JOHNSON asked the consent of the House to permit him to offer a resolution embracing a vote of thanks, for his services, to the late Speaker of the House of Representatives.

Several members objected.

Mr. CROCKETT said: I go against the resolution altogether, and I am ready to state why I do so. I am not inclined to adopt a vote of thanks to any man, without knowing what for, or being satisfied they are deserved.

Mr. R. M. JOHNSON having moved that the House suspend the rules to enable him to present the resolution,

Mr. BURGES called for the yeas and nays on the motion to suspend; which were ordered, and taken, as follows: Yeas 87, nays 51, (not two-thirds.)

The joint resolution adopted yesterday, to rescind the rule as to the reception of bills by each House at the close of the session, and sent to the Senate, having been returned by them with an amendment thereto, extending the time until 2 o'clock this day for that purpose, was, on motion of Mr. Polk, taken up; and, after a desultory conversation, the amendment of the Senate was adopted.

Mr. PINCKNEY moved that the House take up the bill imposing an extra tonnage duty on Spanish vessels, which, he said, was highly important to his constituents, that it might be ordered to be engrossed for a third reading. Some objections having been made,

Mr. P. moved a suspension of the rule for that purpose; but, ascertaining that the sense of the House was against the motion at present, he finally withdrew it, to be renewed at a later period in the day.

The bills which were last night ordered to be engrossed for a third reading, were read a third time, and passed, and sent to the Senate for concurrence.

The bill making an appropriation of $70,000 for the improvement of the navigation of the Hudson river (reported by Mr. Selden) being on its final passage,

Mr. HAWES called for the yeas and nays; which were ordered.

The bill was passed, yeas 95, nays 62, and sent to the Senate for concurrence.

The House resolved itself into Committee of the Whole on the state of the Union, Mr. Wilde in the chair, to consider the harbor bill, which was returned from the Senate with amendments thereto, and which were agreed to by the committee.

The committee having risen and reported to the House their agreement to the amendments,

Mr. POLK moved that the House do non-concur in the amendment increasing the appropriation for the removal of "the raft" or obstructions in the Red river, from $30,000 to $50,000.

Mr. BEARDSLEY said that, although it was possible that more than $30,000 could be expended on this work before the meeting of the next Congress, yet, as the

Senate had thought proper to increase the appropriation, whilst provision was made that the money should be properly expended under the direction of the Secretary of War, he saw no good reason why the House should reject the amendment.

Mr. POLK did not think the circumstances justified the Senate in making so large an appropriation.

Mr. SUTHERLAND had heard that various estimates had been presented to the Senate, which justified them in increasing the appropriation.

The motion of Mr. POLK was negatived.

So the House concurred in that amendment.

The amendments to increase the appropriation for the erection of piers in the Kennebunk river, from $9,700 to $10,300; to strike out the appropriation for connecting the waters of the river Raisin; to strike out the appropriation of $29,000 for the removal of obstructions in Deep creek, Elizabeth river; to provide that $5,000 of the $29,000 for surveys, should be applied for geological surveys, &c.; and an appropriation of $4,000 for the rebuilding of a monumental beacon at Penobscot, Maine, which had been blown away in a recent storm; and the appropriation of $30,000 for the removal of obstructions in Cumberland river; were severally concurred in by the House.

The House went again into Committee of the Whole on the state of the Union, Mr. CASEY in the chair, on the bill to carry into effect certain Indian treaties, returned with an amendment of the Senate, to provide that an appropriation of $5,600, to defray the expenses of certain delegates from the Cherokees at Washington, should be divided as follows: "To the eight delegates from the Eastern Cherokees $3,400. To the five Western do. $2,200."

Mr. CLAY opposed the amendment, contending that the Secretary of War had notified some of these parties that their expenses at Washington would not be paid, unless they were authorized, by the tribe they represented, to conclude a treaty now pending with the United States.

Mr. WILLIAMS said it appeared that the original appropriation proposed by the House went to pay those delegates, who were not duly authorized by the Cherokees to conclude any treaty, whilst the amendment of the Senate went to pay the expenses of those who were. Under such circumstances, who, he asked, could hesitate to decide as to which of them ought to be paid?

Mr. BURGES remarked that, as it appeared there were dissensions amongst these Indians, the House ought not to adopt the cause of either, whilst by paying to the delegates from the Eastern as well as the Western tribes, we would be paying the representatives of the whole.

After a few remarks from Mr. McKINLEY in opposition, and from Mr. HUNTINGTON in favor of it, the amendment was concurred in.

The committee thereupon rose and reported their agreement to the amendments, which were severally concurred in by the House.

The House, on motion of Mr. HEATH, suspended the rule, and took up the bill making appropriations for the erection of a marine hospital at Baltimore, and for other purposes; which was amended and passed to a third reading.

The bill to extend the time for issuing military land warrants, and the bill authorizing the Secretary of the Treasury to make experiments to prevent explosions by steam, were also taken up, and passed to a third reading.

The bill to remit the duty on certain locomotive engines, &c. being on its final passage,

Mr. MARTINDALE moved to lay it on the table.

Mr. DENNY said the principle involved in the bill was too important to be acted upon so late in the session, and called for the yeas and nays.

The motion to lay the bill on the table having been negatived: Yeas 67, nays 77—

Mr. MERCER moved to substitute "one" instead of "three" years, as the limit of the duration of the bill.

The amendment prevailed.

Mr. DICKERSON, of New Jersey, reiterated the objections previously stated by him to the bill.

Mr. MASON supported the bill.

Mr. H. EVERETT moved to strike out the second section of the bill, (which provides that locomotive steam engines intended for railroads, and the parts of such engines, shall and may hereafter be imported free of duty for three years.)

Mr. E. desired to say only a word. He considered this section as trenching on the principle of the compromise bill. The principal arguments used in support of it would apply to any other article; and this would be quoted hereafter as a precedent for other cases. He would not countenance the least violation of that compromise.

Mr. J. Q. ADAMS called for the yeas and nays; which were ordered.

The question being taken on Mr. EVERETT's amendment, it was agreed to: Yeas 76, nays 67. The bill was then ordered to its third reading.

The bill to equalize the discriminating duties on American vessels in Havana and Porto Rico having been read a third time, and the question being on the passage of the bill,

Mr. McKIM renewed his opposition to its passage.

Mr. PINCKNEY spoke in its favor.

Mr. McKIM moved to lay it on the table; but the motion was negatived, and the bill ordered to its third reading.

Mr. CLAY endeavored to get the rejection of the bill providing for the passage of railroads and canals through the public lands of the United States reconsidered, that it might be passed, with an amendment; but the House refused to reconsider.

The bill authorizing the Secretary of the Navy to have experiments made on the steam engine was read a third time and passed.

The bill to remit the duties on locomotive engines was read a third time, and, after a short opposition by Mr. PARKER, was passed.

The bill concerning tonnage duty on Spanish vessels was read a third time and passed.

Mr. SMITH, of Maine, obtained leave to introduce a joint resolution, extending the time of sending new bills from one House to the other, so as to include the above bills, which had been passed by the House. The resolution was agreed to.

The House then took a recess until 4 o'clock.

EVENING SESSION.

The sitting continued until a very late hour; the House being chiefly occupied upon bills.

In the course of the evening a resolution was introduced by Mr. SPEIGHT, of North Carolina, for presenting the thanks of the House to the honorable ANDREW STEVENSON, late Speaker of the House of Representatives, for the faithful, industrious, dignified, and impartial manner in which he discharged the duties of the Chair; and the resolution was agreed to, by yeas and nays, 97 votes to 49.

The House adjourned to meet at 9 o'clock on Monday morning.

MONDAY, JUNE 30.

Mr. SELDEN, from the Committee on Commerce, presented petitions from inhabitants of Philadelphia and New York, praying that Congress would pass a law to

authorize the importation of distilled liquors in casks of a less size than is now allowed by law; also, to permit spirits to be put into smaller casks for the purposes of reshipment; the law at present being to exclude spirits exported in casks of a small size from the benefit of custom-house debenture, &c.

Mr. S. said that the Committee on Commerce looked upon the proposition in a favorable light, and he was now instructed to move that the memorials be laid on the table, it being their intention to make inquiry into the practicability of the measure during the recess, with a view to the action of Congress on the subject next session.

The memorials were laid on the table and ordered to be printed.

THE POLISH EXILES.

The bill from the Senate granting a township of land to 235 emigrant Poles, having been amended by the House, was returned by the Senate with their non-concurrence in the amendment.

[The amendment provides that the land titles shall be granted after ten years' settlement thereon, upon payment of the minimum price.]

Mr. CLAY, of Alabama, said he must move that the House do adhere to its amendment, and went into an explanation to show that the bill, as it came from the Senate, was a departure from the constitution, being a donation, for which there was not any precedent that he was aware of to authorize their making, of the public domains. One donation of the public lands had been given by Congress to certain emigrants from France, but that grant had some public ground to recommend it; those persons being required to plant the vine and the olive. He could not agree in opinion with those who thought that Congress had the power to grant land to these or any other foreigners, which they could not do to their own citizens, unless where commensurate benefits, facilitating sales thereof, &c., would be accomplished by it.

The amendment proposed by the House gave to these individuals advantages which were not given to the people of the United States, namely: if they went on the lands, after ten years they would only be called on to pay therefor the lowest price, viz: $1 25 per acre; and this was sufficient, in his estimation, for Congress to grant.

Mr. BARRINGER concurred generally in the views of the member from Alabama, but suggested to him to vary his motion.

Mr. CAMBRELENG held that Congress had the power to make grants of the public domain, with a view to their actual settlement; and said he did not believe the people of the United States generally would refuse their assent to the grant for men circumstanced as these Poles were known to be: men who had been bravely fighting the battles of liberty in the old world, and in resistance to the march of despotism. He considered this an offering in the cause of liberty, to which it was the duty of the House to respond.

Mr. J. Q. ADAMS expressed his hope that this nation would not act on a niggardly principle towards these brave but unfortunate men. He did think that we were imposing too many conditions with the grant.

Mr. BURGES would, in reply to the constitutional doubts of the member from Alabama, inquire, from every son of freedom throughout the land, if the public domain could be better disposed of than it was by this grant, given as encouragement to those who had so bravely battled in its sacred cause? The eyes of the world, he said, were upon them; and no man in the United States, no free man, would or ought to say it was unconstitutional to pass this bill.

Mr. HARDIN hoped the amendment proposed by the member from Alabama would prevail, and maintained that if the bill was passed in the shape now reported from the Senate, it would be impossible for Congress hereafter to draw the line, and refuse similar grants to the Irish, the Dutch, the German, or other emigrants who came to this country, who were all equally suffering, or had suffered in the cause of liberty at home. All were, he thought, equally struggling for freedom. He could not see what particular ground upon which this was to be maintained. If it was that aid had been offered by the Polish nation to this country in its revolutionary struggle, then so did the people of the other foreign countries, whom he had named, assist. He would rather extend the time for the payment 100 years than establish any such precedent as a donation under such circumstances.

Mr. CARR, in order to close the discussion, which seemed to be interminable, moved to lay the bill on the table, but withdrew the motion at the request of

Mr. CLAY, who wished to have the question taken upon insisting or adhering to the amendment made by the House.

Mr. PINCKNEY, however, renewed the motion to lay the bill on the table; which motion being negatived: Yeas 48, nays 107—

Mr. CLAY rose and insisted that, by the act of cession (which he cited) from the several States to the United States of these public lands, Congress was not authorized to grant away or dispose of them, "other than for the benefit of the people of the United States, &c. and for no other purposes whatsoever." It was on this act of cession, he said, that he based his opinion that Congress was incompetent to make this donation. He would concede that, on the score of commiseration, these exiles were entitled to assistance. But why, even so, should not similar assistance be afforded to our own poor, many of whom would be rejoiced to get the right of entry on similar conditions as were proffered to them, even on the refuse lands? The amendment, he contended, would entitle and enable these men, after enjoying all the benefits of a grant, to purchase the land, with the avails arising from its produce when cultivated.

Mr. McKIM having, with a view to arrest the debate, moved the previous question, it was seconded, and the main question having been ordered and taken,

The House insisted upon its amendment (requiring the minimum price for the land) to the bill: Yeas 82, nays 68.

THE POTOMAC BRIDGE.

The bill making an appropriation for the construction of the Potomac bridge, and repealing all former acts in relation thereto, having been returned from the Senate, with some amendments,

Mr. MERCER moved that the House disagree to so much of the amendment of the Senate as went to strike out the second section of the bill; which was agreed to.

After which, Mr. MERCER moved an amendment, in substance, to provide that, instead of the Secretary of the Treasury being authorized to pay Mr. Dibble, who had, in the belief that he had made a contract with and at the suggestion of the President, laid in materials, to a large amount, for the construction of a stone bridge, for his expenses and liabilities, &c., that the Secretary should ascertain all the reasonable expenses incurred by him for the construction of the said bridge, and report the same to Congress next session.

The amendment having been debated at length by Mr. Fillmore, Mr. Mercer, Mr. Whittlesey of Ohio, Mr. Mann of New York, Mr. Peyton, Mr. Stewart, Mr. Harper of Pennsylvania, Mr. Chinn, and Mr. Chambers,

Mr. WARDWELL moved the previous question; which was seconded by the House: Ayes 78. The main question, "Shall the House concur in the amendments of the Senate?" was taken, and negatived: Yeas, 46, nays 87.

[There was afterwards a conference and compromise on this disagreement.]

POST OFFICE.

The following gentlemen were announced to compose the committee to sit in the recess to investigate the affairs of the Post Office:

Messrs. CONNOR, POLK, WHITTLESEY, H. EVERETT, BEARDSLEY, WATMOUGH, and HAWES.

Mr. POLK said he perceived, from the reading of the Journal this morning, that he was placed as a member of the select committee appointed to sit during the recess of Congress, to examine into the condition of the General Post Office. Mr. P. said he had never shrunk from the performance of any duty assigned to him, since he had been a member of the House. It was well known to the House that he had, during the present session, been a member of a most laborious committee, the duties of which he had attempted to perform. He had been at all times willing to give his whole time and attention, whilst Congress was in session, to the business of the House. This committee, however, were to sit at Washington during the recess. The state of his private affairs, he said, would render it very inconvenient for him to be at Washington earlier than the meeting of the next session of Congress. He must therefore respectfully ask the favor of the House to excuse him from serving as a member of this committee.

Mr. POLK was excused, and Mr. STODDERT appointed in his place upon the committee.

The bills remitting the duties on bells presented to the Roman Catholic church at St. Louis, Missouri, having been called up by Mr. ASHLEY, occasioned some debate on the constitutional question of appropriating for the establishment of religion; but the bill was at length passed, 66 to 58.

The House receded from its disagreement to the Senate's amendments to the bill to regulate trade and intercourse with the Indian tribes.

Mr. ASHLEY endeavored to have a reconsideration of the vote laying on the table the bill to confirm certain land claims in Missouri, but failing in that effort, he moved a resolution requiring the report of the commissioners who passed upon the claims to be submitted to the Secretary of the Treasury; which was agreed to.

On motion of Mr. SUTHERLAND, the House concurred in the Senate's amendment to the light-house bill.

Mr. MERCER, from the committee of conference on the subject of the bridge bill, made a report; which was agreed to.

The resolution to make the allowance of $100 as an additional compensation to the chaplain of the House, was agreed to.

Mr. HIESTER moved a resolution, requiring the Clerk of the House to compile and report tabular statements in detail on the subject of canals and railroads, completed or in progress, in the United States; but it was rejected.

The House being without a quorum,

A call of the House was ordered, when 88 members answered to their names; and other members appearing, the call was suspended.

The Senate's amendment to the bill to pay for property lost and destroyed in the late war on the frontiers, striking out all but the allowances for horses lost in Illinois, was, on motion of Mr. DUNCAN, agreed to. He accompanied his motion with remarks on the merit of the sufferers.

On motion of Mr. CHINN, the House disagreed to the Senate's amendments to the bill to complete the repairs of Pennsylvania avenue.

Mr. W. COST JOHNSON opposed the disagreement, and moved a call, but consented to withdraw the motion.

After some business of minor importance,

The usual message was sent to the Senate and President, informing them that the House was ready to adjourn; and both Houses adjourned at about 7 o'clock.

APPENDIX,

CONTAINING SPEECHES WHICH WERE EITHER NOT RECEIVED IN TIME TO BE INSERTED, OR WERE ACCIDENTALLY OMITTED IN THEIR PROPER PLACES.

SPEECH OF MR. BINNEY ON THE KENTUCKY CONTESTED ELECTION.

The resolution of the Committee of Elections coming up for consideration, viz:

Resolved, That Thomas P. Moore, Esq. is entitled to the seat in this House to represent the fifth congressional district of the State of Kentucky.

And the following amendment proposed by Mr. BANKS, viz:

That all the legal votes which were received in Lancaster, Garrard county, whilst Moses V. Grant, Esq. acted as one of the judges, on the first morning of the election in August last, and those of a like character given on the second day of the election, in the casual absence of the sheriff, ought to be estimated in ascertaining the result of the election.

Mr. BINNEY addressed the House as follows:

Mr. Speaker: The report of the Committee of Elections presents for the consideration of the House two classes of questions, differing materially in difficulty as well as in importance. One of them involves the competency or qualification of individuals whose votes are on one side or the other alleged to have been bad, the other requires the House to decide upon the effect of alleged irregularities in the manner of election upon votes either admitted or proved to have been good. The difficulty of the cases comprehended in the first class is one of fact or evidence merely. It is so throughout, with the exception of those cases which turn upon the legal definition of residence, where some resort must be had to principles of law, to fix the meaning of this word in the constitution of Kentucky. With this exception, which is of limited extent, there is no other difficulty in regard to any contested case within this class, than that of weighing the evidence which is produced to prove or disprove the age and residence of the voter; and the importance of the decision upon these cases is much lessened by the circumstance, that it cannot well grow into a precedent to govern future adjudications by the House. It is not my intention, therefore, to detain the House by remarks upon this branch of the controversy, further than by adverting, in a very brief way, hereafter, to the case of the

theological students at Danville. But the other class is of a description that cannot be very easily magnified beyond its due proportion both of importance and difficulty. The cases within it are referred to in the amendment proposed by the gentleman from Pennsylvania, [Mr. Banks,] which claims for Mr. Letcher a number of clearly legal votes, rejected by the Committee of Elections, on the ground of irregularities in the mode or circumstances of receiving them; and these irregularities are said to consist in the premature appointment of one of the judges of election, by the sheriff of Garrard county, before the judge named by the court was in default by non-attendance; and also in the temporary absence of the sheriff himself from the polls, before his regular deputy could come to supply his place. This allegation of defect consequently concerns the law of elections in this House deeply and vitally. It concerns all future elections that shall be adjudicated by the House, for similar questions will recur with every contested election; and, if it behooves the public interest in a most important particular, the right of suffrage, to have a certain, uniform, and reasonable rule in regard to the influence of such irregularities upon the rights of electors, it becomes the House to give its present attention to the consideration and establishment of such a rule.

Sir, a majority of the Committee of Elections claim to deduct from Mr. Letcher thirty-eight votes more than from the opposing candidate, on the ground that all the votes given at Lancaster while Moses Grant acted as a judge on the first day, and while the sheriff, Thomas Kennedy, was absent on the second day, until Yantis, the deputy sheriff, arrived, ought to be regarded as illegal votes, although the voters possessed all requisite personal qualifications; and this they claim upon the ground that, by the statute of Kentucky, the sheriff, who was required to open the election by ten o'clock, that is to say, at not later than ten, and was authorized to appoint judges immediately preceding the election, if those named by the county court failed to attend, was not authorized to appoint Moses Grant to act as judge in the place of Joseph Wheeler, until immediately before ten o'clock, whereas he did actually appoint him immediately before opening the election at an earlier hour; and upon the further ground, that the presence of the sheriff was, by the same statute, indispensably requisite to the valid reception of every vote; by virtue of a provision "that the persons entitled to suffrage shall, in presence of the said judges and sheriff, vote personally and publicly, *viva voce*," whereas, during a portion of the second day, in consequence of the sudden illness of his wife, the sheriff was absent. I differ in both particulars from the committee, in their interpretation of the statute, and will state my reasons hereafter; but what I desire to bring to the consideration of the House is, the proper effect of such irregularities as these, even if the committee have given to the statute its true interpretation. What ought to be their effect upon votes confessed or clearly proved to have been good? To what extent must good votes be necessarily rejected, because they have been received during the existence of even admitted irregularity in circumstances like these? This is the question which I ask the House to consider; and I deem it to be of great moment to this and to all other elections for representatives in Congress.

The majority of the committee, and gentlemen on this floor who concur in their opinion, have confined themselves to the literal prescription of the statute; and having, as they supposed, ascertained its provisions to be of a certain import, they have followed them implicitly, though it has led to the rejection of unquestionable votes, and if their views are followed out, will give a seat in this House to the candidate of a minority of the qualified voters of the district. No proposition can lead to such a conclusion, except one that I reject without hesitation, namely, that the manner of holding elections prescribed by the States, is part and parcel of the qualification of electors, and to be respected rigorously as such; and that any defect in the organization of the polls, at the time when votes are received, disqualifies the voter, and fixes the stigma of illegality upon his vote. I reject this proposition altogether. It is hostile to the principle of suffrage, and is intrinsically anti-republican. I reject the proposition upon which the report of the majority rests, that, because the State of Kentucky has a right to prescribe the manner of holding elections, votes not taken in precise conformity with the prescribed manner in all points, are, therefore, necessarily illegal votes. It does not follow. It would not follow, in the judgment of the Legislature of Kentucky, if they were called upon to apply the law to the case of a member claiming a seat in that body. It would not follow in the judgment of any judicial tribunal whatever. Other matters enter into the inquiry, besides the mere fact that the law of a State has prescribed certain regulations for organizing the polls and conducting the election. It is matter of inquiry, to what extent these regulations are, by the policy or express language of the law, conditions, and how far they may be regarded as merely directory; in what cases noncompliance affects only the agents who superintend the election, and in what cases the electors also; whether exact and literal conformity in all points must be shown, or whether there is any degree of departure from the prescribed form and manner of the law, that is not, and ought not to be, deemed fatal. This is a matter of indispensable inquiry, even though the literal interpretation of the statute be as the committee have imagined it; and I shall, therefore, advert to some considerations which belong to this view of the case, before I inquire into the construction of the statute.

A distinction between the qualifications of electors, and the manner of holding elections for representatives in Congress, exists in the constitution itself. That instrument has placed the qualifications under the exclusive regulation of the States; it is so by necessary implication. "The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature." The States alone can declare these qualifications, and their determination is conclusive. Even a judicial construction or interpretation of them by the State courts is binding upon Congress. Congress cannot take from nor add to them.

The regulation of elections stands upon a different footing. "The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators." The State laws regulate the elections of members of this House, by permission of Congress. In the interpretation of such laws, this House trenches upon no rights of the States: It merely understands, and enforces according to its understanding, a law which Congress can make or alter at pleasure. The House does not alter nor affect the qualifications of electors required by the States, by interpreting the State regulations, as its own sense of the policy and spirit of such regulations may dictate. It is a question of interpretation only, and not a State power.

Now, sir, by the fifth section of the same article of the constitution, the fullest authority is given to the House to exercise conclusive and exclusive judicial power over this subject. "Each House shall be the judge of the elections, returns, and qualifications of its members." This power embraces the whole subject. The elections comprehend every agency of electors, judges, sheriffs, and clerks, from the beginning to the end. The returns are the authentication of the result. The qualifications of its

members are those which the constitution of the United States has prescribed. The whole matter is thus referred judicially to the House, under the undoubted obligation to interpret the State laws instead of rescinding them, but under the equal obligation of giving effect to the will of the qualified electors, and to prevent its defeat by setting up the means as superior to the end. The House has full judical power to decide upon these prescriptions as to time, place, and manner, according to such reasonable principles of interpretation as are applicable to laws whose policy is to secure a due representation of the qualified electors in the National Legislature.

What, then, ought to be the interpretation applied by the House to a law of Kentucky prescribing the manner of holding elections for representatives in Congress? The law does not give the right of voting; it is not intended to restrain or abridge it; its great object is to promote and secure a fair and free exercise of it. Gentlemen who argue, as some have argued on this floor, that, being a conventional, and not a natural right, it does not exist unless it is exercised in the precise manner, in all respects, as the State law prescribes, build their argument upon a distinction which is of no value, and confound things which are essentially different. Whether the right of suffrage be natural or conventional is of no importance. It is a fundamental right. Government itself, or rather a particular form of government, is conventional; and if the right of suffrage is as good as the Government, it need not be better. Being a fundamental right, secured by the constitution of Kentucky, it ought not to be, and cannot legitimately be, confounded with those provisions of law which are designed to secure its exercise. That all the provisions of an election law are parts of the qualification of an elector, and to be scrutinized and enforced with the same strictness as qualification itself, is a position that is not warranted by any analogy in the law. Doubtless, the provisions of every statute are entitled to respect and to general observance. It is the duty of those who execute the laws to respect and enforce them all. But when the argument assumes for them such an influence, as that the omission to observe any one of them becomes a defect of qualification in the voter, and obliges this House to reject as illegal the votes received while the irregularity prevailed, the construction becomes an enormous evil. The position is radically opposed to the right of suffrage, as it also is to well-established rules for the interpretation of statutes of this description; and it will make the right the victim of accident, ignorance, inattention, and even of fraud, in the execution of an election law, and, consequently, of those very precautions which were intended to secure its exercise. On the contrary, sir, neither accident, ignorance, inattention, nor even fraud, in the officers of election, in omitting to comply with the prescription of the law, ought in all cases necessarily to disappoint the right of suffrage. If the authority of the officers was colorably or apparently good—if the defects in form were such as did not disturb the fairness of the election, nor pervert its fundamental nature, by making it a *viva voce* election instead of an election by ballot, or the contrary—if, in spite of irregularities, this House can see that, according to the spirit of the law, the will of the people in the exereise of their right of suffrage has been fairly expressed,—and if the State law does not expressly declare the irregularity to be fatal,—then, in my apprehension, the authorityof the House to judge of the election, leaves it free to disregard those irregularities, and to give full effect to the will of the majority of qualified voters. It is free to disregard them, in deference to the policy and spirit of the law, and is not bound by a servile attention to forms to defeat them both.

Mr. Speaker, I propose this case for the consideration of the House: When all the formalities of the law, in time, place, and manner, have been duly observed, the judges and clerks duly appointed and duly sworn, the sheriff in personal attendance throughout the election, the returning officers performing their duty, and the Governor certifying the result, is it not the law of elections in this House, that the House may disregard the decision of the judges and the return, and give the seat to a candidate in opposition to them? Has not the House authority to throw into the scale of the candidate not returned, legal votes in his favor which the judges have refused to estimate, and thus to give him a seat in preference to the candidate returned? Sir, the Committee of Elections have proceeded on the basis of such an authority in this very case. There has been no regular return in favor of any candidate; and, by the act of the sheriff of Lincoln, there was a total failure to make that comparison and addition which the sheriffs of the different counties were required by law to make; yet the committee have scrutinized the polls, and, in disregard of forms, have reported in favor of giving the seat to one of the candidates. The House, then, is competent to give the seat to a member, by the force of discarded votes, in opposition to the most regular forms. I ask, why is this? The answer can only be, that the right of the voter is superior to forms, and that the abuse of forms to defeat it ought not to succeed. The election law prescribes that all legal votes shall be received; it directs that they shall be counted; and it orders the result to be declared, according to the state of the polls, as the judges of election have received them. But if the contrary occurs, in disregard of the fundamental law of suffrage, this House will redress the wrong, in spite of all the protection that forms can give it. Formal compliance with the law is not, then, essential to title; but the most regular forms will be disregarded, when they stand in opposition to the rights of the electors.

If the case be reversed, and the very question in this contest be presented, whether the House is bound to reject good votes, because they have been received and counted by persons who have not in all respects observed the forms of the statute, what answer can be given, except one that accords in principle with that which rules the case first stated? If the House may give effect to good votes when they have been disregarded by the judges, and when the regular forms of the law stand in opposition to them, so it may give effect to good votes when the forms of law have not been strictly complied with in receiving them. The non-observance of form, then, is not necessarily fatal to a vote, as a defect of personal qualification is.

Suffer me, sir, to pursue this matter a little further. It is said that the voter takes his right of suffrage as the law gives it to him, and that the law gives it to him *sub modo*, that is to say, in the manner prescribed for its exercise by the election law; and, consequently, unless his vote was taken in the very manner prescribed by the law, it was illegally received, and is a nullity. I have already remarked that this proposition is unsound, because it confounds the fundamental right of suffrage with the provisions which are made to secure its exercise. But let me ask, how far gentlemen mean to go with the doctrine, for I am not aware that it has been at all qualified or limited in argument. If the prescription in time, place, and manner, must be observed throughout, to give effect to the right of suffrage, must it be observed with the strictness of a legal condition? Must there be duly-appointed and sworn judges, clerks, and sheriffs, each performing his prescribed duty, without deviation, from the beginning to the end; and does failure in any particular invalidate the vote or the election? Gentlemen should consider that their doctrine may involve not only a few votes, but the whole election; for if the election law is a series of provisions of indispensable observation, they should recollect that while the common law is styled a nursing father that makes void only that part where the fault is, and

Preserves the rest, the statute is like a tyrant; where he comes, he makes all void. In this very statute of Kentucky the sheriff is expressly required to proclaim the persons elected, in the court-yard, at the end of the election. Suppose he does not proclaim them at all, or proclaims them on the house-top, or in the street, because there is no court-yard. It may be that he violates the law, and must excuse it or answer for it to his superiors; but what then? Will any one assert that the election is void for want of a proclamation? Again: suppose the law to require that the election shall be held in the county court-house, and that by a fire, at the very time of election, the judges and clerks are driven into the street, or into an adjacent building, and there finish the polls. The prescription of place has not been rigorously observed; but will not even necessity excuse the change, nor the nearest approach to the place that safety to life will permit satisfy the law? Again: the judges and clerks are to be sworn in a set form of words, prescribed by the constitution or law; and this is one of the substantial ceremonies of an election. Suppose there is a flaw in the authority of the justice who administered the oath, or a negligent deviation from the terms of the oath prescribed: does it follow that the election is vitiated? It is well known that a justice whose qualifications are not in all respects perfect, cannot recover his fees of office, nor maintain any action as a justice of the peace. It may also be that the penalties for omitting to take an oath of prescribed form are recoverable at law, though an oath in different form may have been taken. But can it be argued, that an oath taken by a judge or clerk before a justice, in the actual exercise of his office by color of a commission, though in some point defectively qualified, or that a deviation from the set form of the oath, so vitiates the polls that this House must reject them? Nay, sir, if the oath has been altogether omitted by judges and clerk, either by accident or in fraud, the voter not being privy to it, is it the law of this House that votes received by such officers are incurably bad? I cannot admit the position, if it is asserted on this floor. I cannot admit that the omission to swear a clerk of election, though expressly required by law, is necessarily fatal to the polls. Though gentlemen have in former cases so argued, and in two instances committees have reported to the same effect, this House has not, to my knowledge, sustained the doctrine by its decision. The contrary has been held in England, and is, I think, in clear conformity with principle. Upon principles of settled law, I trust that this House would do the same, if the point were now directly before them; and yet, sir, if this single point of election law be as I suppose it is, gentlemen must perceive that the doctrine, that forms and even the substance of an election law are parts of the voter's qualification, cannot be maintained. It must be abandoned, and some more practical principle assumed for interpreting the election laws of the States, and for preventing deviations from prescribed form from becoming fatal to the right of suffrage.

Mr. Speaker, the most extravagant position that could be urged in a court of strict common law, would be the universal necessity of literal compliance with all forms prescribed by statute, even to give title, still less to give effect to the exercise of an existing right. The distinction between enactments that are directory and such as are strictly conditional is a familiar one; and it is deduced from the obvious policy or spirit of the statute. In the State of Pennsylvania there is a statute, the settled interpretation of which illustrates the principle. It is an act which prescribes that every survey thereafter to be returned into the land office upon any warrant issued after the passage of the act, shall be made by actual going upon and measuring of the land, and marking the lines to be returned on such warrant, after the warrant authorizing such survey shall come to the deputy surveyor's hands; and that every survey made theretofore shall be accounted void and of no effect. Under this act it has been held, that so much of it as prescribes the mode of making the survey is directory, and that so much as requires the warrant to be in the surveyor's hands at the making of the survey is conditional; that a survey made before the warrant comes to hand is absolutely void; but although the surveyor, unless he goes on the ground and marks all the lines, is not entitled to his full fees, yet that the title of the warrantee is perfect, if any lines are run and marked so as to enable him to identify the tract and ascertain its quantity. The distinction is founded on the consideration, that it is the policy of the law to destroy all surveys made before the surveyor is in possession of the warrant; and that by the provision as to the manner of making them, it means only to give certainty to the survey. The same distinction has been held in regard to other statutes. It would doubtless be applied to quiet the objection, if raised, that the sheriff had not made proclamation according to the law of Kentucky; and the principle upon which it depends would probably induce this House to disregard every effect of form occurring in the course of an election, in which it appeared that the votes of the qualified electors had been fairly given to persons apparently competent to receive them, in substantial compliance with the spirit and policy of the law. This House, in the exercise of its constitutional functions as the judge of elections, is a court of the very highest authority, at once a court of law and equity, subject to no appeal, and under no restraint except that which is imposed by a sound discretion, and the obligation of giving effect to the right of suffrage. The enforcement of that right ought to be the great object and end of the adjudication. The forms prescribed by the States, under the permission of Congress, are of secondary importance. They are instruments intended to assist the right; and, in the absence of explicit enactment to that effect, should not be set up to defeat it. By dealing with these forms as some gentlemen require, we deal with them as no court of law or equity would deal with formalities prescribed, either by private deed or by statute, in any case as meritorious, and as full of the very highest consideration, as is the exercise of the elective franchise. The most rigorous of common law conveyances, those of fine and common recovery, are amended even by courts of law; and their defects in form are supplied with much greater liberality by courts of equity. In the case of powers, however rigorously the execution of them may be prescribed by the party who creates them, to take effect only in one form, as by deed under seal and in the presence of a certain number of witnesses, yet a court of equity, where a valuable consideration has passed, will effectuate an execution of the power when not one of the formalities has been observed. This, it is true, sir, is dry, technical doctrine, but it teaches a lesson not unworthy of attention, to a court which is now called upon to adopt a rule that will sacrifice the highest of political rights to the most empty and immaterial of forms. I am aware that formalities required in some cases by act of Parliament cannot be dispensed with by courts of equity or law. The case of stamps, and the ship registry provisions, may be referred to, and some others. But these are cases in which it is the policy of the statutes, as well as the language of their enactment, to make null and void all such instruments as are not made or authenticated in precise conformity to the statutes. Here the policy of the statutes is to carry the elective franchise into full enjoyment, and its forms are devised with this view. It is one thing to say that a court of equity cannot assist an unstamped instrument, and another to say that this court cannot assist the right of suffrage, by preventing a form from being set up for its destruction. There are many cases which must be familiar to gentlemen of the pro-

fession on this floor, in which the plain language of a statute, making a deed absolutely null and void to all intents and purposes in a certain event, (as, for instance, unless recorded in a certain time,) as has been restricted by courts of law as well as of equity, so as to make the instrument only so far void as the policy of the law required. There is nothing in a mere statutory enactment more than in a private agreement, that places it beyond the influence of the considerations that have led to these decisions. The principle is one of universal application.

I submit, then, to the consideration of the House, that when the votes of qualified electors have been received by the judges, no defect in the form of appointing or qualifying the judges, or in receiving, comparing, returning, or certifying the votes, ought to be deemed necessarily fatal to their influence in the election. The forms may be to some extent material, but they are not essential and indispensable. It may become a question whether their omission or perversion has not tended to defeat a fair expression of the public will. The presumption, or *prima facies*, may be that it has done so. But when it is satisfactorily shown to the House that no such effect has been produced, that the votes received were good, and that all presumption arising from the non-observance of forms is rebutted and taken off, then I apprehend the objection to want of form must cease, and the legal votes claim their due weight in the decision of the House. What I submit to the House is, that the prescribed forms of an election are not part of the qualifications of a voter; and that it is the duty of the House to respect legal votes, without regard to form, where it can be ascertained that the omission of form has done no prejudice to the rights of the citizens, and where the law of the State has not expressly declared that a non-compliance with forms shall be fatal.

It may, however, be said, that the due qualification of that tribunal by which votes are to be received and judged, and its continued presence and operation throughout the election, are no matter of form or ceremony, and do not come within the influence of the principles I have adverted to.

There is another principle, sir, of as general application, and of as indispensable use to society at large, as that of making the words of a statute yield to its spirit and design; which principle, in my judgment, relieves the Garrard county election from all objections raised against it by the committee.

There is no doubt that, throughout the first two days of the election, from the opening to the close of the polls, two judges were present, who were appointed by the sheriff; and that the sheriff had power to appoint them immediately preceding the opening of the election, if those appointed by the county court failed to attend. It is not, as far as I recollect, contended by any one, that the sheriff was not authorized to appoint judges, and to open the election before 10 o'clock, if the judges named by the court had refused to attend, or had been incapacitated by sickness or death. No gentleman has asserted the necessity of waiting until ten, for judges who would not or could not attend. Then, sir, the polls, before the hour of ten, presented to the voters and to the public, the case of judges exercising their office, in the presence of the sheriff, who had authority upon the refusal or incapacity of the other judges to appoint them; and their was nothing to apprize the electors that the very fact of refusal or incapacity had not occurred. One of them, Isaac Marksbury, had refused; and there was nothing in appearance to distinguish his case from that of Wheeler. Here, then, was the case of judicial authority *de facto*, in open exercise at the place of election, in the very presence of the appointing officer; and the question is, whether the defect now alleged in argument, that Wheeler had not in fact refused, vitiates the votes received by Grant. I conceive it to be clear that it does not. The principle which sustains the exercise of such authority, to the whole extent that the rights of third persons are concerned, is perfectly established, and the business of life could not proceed in safety without its aid. The maintenance of the principle, that official authority *de facto* is entitled to respect, concerns the security of the whole people. We must acknowledge our deeds before judges and justices, or expose our titles to destruction. Our writs must be executed by sheriffs and their deputies, and our land warrants be surveyed by official surveyors. Electors must give their votes to judges, inspectors, or other ministers of the law appointed to receive them. All these officers may have some latent defect of authority, which, in questions concerning themselves only, may be justly set up against them; but there can be no security to the property and rights of any man, if such a defect can be set up to defeat the official act to which a third person has trusted, relying upon the open and unquestioned exercise of an apparent authority. There is the highest authority for saying that the acts of such officers, *de facto*, are good as to third persons. The question has often occurred in regard to a defect of authority arising from an omission to take an oath of office. Unless the officer takes the oath prescribed by law, the office is void as to himself, but only to himself. He cannot sue for his fees; he is liable to punishment for intermeddling with office until he is legally qualified; yet, in regard to third persons, the validity of his acts is unquestionable; for otherwise, not only those who in no way infringe the law, but whose benefit is intended to be advanced by it, might suffer by faults to which they were in nowise privy. Sir, the position is universally true, that where one comes to his office by color of title, his acts are valid, where they concern the public, or the rights of third persons who have an interest in the act done. A county treasurer in Pennsylvania, though, unless he has taken the oath prescribed by the constitution, he cannot maintain an action for his fees, is competent to receive and give acquittances to third persons for money paid into the treasury. Commissioners of highways in New York, though subject to a penalty unless they take the oath of office, and liable to be superseded by a new election, yet, while exercising their office *de facto*, may lay out a public highway according to statute, and the town clerk is bound to record it. The public interest gives validity to their colorable authority. All the acts of such officers are valid, except such as are arbitrary and voluntary, and do not affect private or public interests. The mayor of a corporation, who, without being duly qualified, is not a mayor *de jure*, yet, being so *de facto*, may bind the corporation by putting its seal to a bond; and although the corporation may remove or displace him, yet, in the mean time, all judicial and ministerial acts done by him are good. All that is requisite to bring the principle into operation is, that the officer should be in the exercise of his office, by color of an election or appointment.

Now, sir, if it has been deemed necessary, as it has been, in the case of justices, sheriffs, mayors, and county commissioners, to give this security to private rights, how vastly more so is it in the case of the judges, inspectors, and officers of a public election, to protect the enjoyment of that inestimable right of suffrage, upon the due exercise of which the existence of our political societies depends. How is the elector to know whether the judge or the clerk has been in all respects duly appointed and qualified? What gives him the authority to ask for evidence of it? How are the public to be protected from trick and fraud to defeat an election, if the principle I have adverted to is held not to apply? The fact of irregularity is most frequently known only to those who are guilty of it. It may be purposely committed and purposely concealed until the result of the election shall furnish a motive for

its disclosure; and that which this House will never know if the candidate favored by the officers of an election shall succeed, they will infallibly know when it shall become expedient to defeat his successful opponent. It is the duty of the House to remove all temptation to trick and fraudulent contrivance, by denying to irregularity the least influence upon the polls when the electors have been in no degree privy to it.

The same course of remark, sir, meets the objection to certain of the polls on the second day, in consequence of the absence of sheriff Kennedy. Let it be taken for granted that his presence, or that of an authorized deputy, was indispensable, according to the provision of the law, that no necessity, however urgent, not even that of attending by the side of a dying wife, that no consent of the judges, could excuse him; that the appointment of Spillman to supply his place was not a legal deputation, (a point which those who have listened to the argument of the gentleman from Kentucky [Mr. Hardin] will think it difficult to sustain;) and that Marksbury, who cried the votes with the assent of the judges in the presence of Spillman, after the latter had ceased, was not acting for and in the name of Spillman, whom the sheriff had deputed. Grant all these positions, and still the case presents that of an exercise of authority by Spillman or in his presence, by color of appointment by the sheriff. I perceive none of the difficulties which the sheriff's absence, without a lawful deputy remaining, is supposed to create in the execution of the law. I think his presence was not requisite; but, under any view of the law, the substitution of Spillman was an apparent or colorable authority, to which the principle I have adverted to gives a sanction, for the sake of the public and the individuals, the exercise of whose rights it promoted. This principle of authority *de facto*, reputed public authority exercised openly without objection or suspicion, is, I submit, sir, abundantly sufficient to clear the election at Lancaster from all the difficulties that have been suggested. If it be admitted that the formation of the tribunal for receiving the votes is as much matter of substance as any prescription of the statute, (and I do not mean to question it,) the substance existed to the whole extent that the principles of law require, where the rights of third persons are to be affected.

I deem myself entitled to ask gentlemen who do not adopt this reasoning, whether they will surrender any of the provisions of the statute, or insist upon exact conformity to all. If they are willing to dispense with none of them, the whole course of decision is against them. If they are disposed to surrender some of them, but not those which are in question here, they are bound to state the principle by which what is of indispensable observance to the letter may always be known. As all election regulations, except time and place, are, in the language of the constitution, manner or form, they must explain to the House the rule by which what they regard as substantial and indispensable form, is to be distinguished from formal form. Is it matter of indispensable observance, that the election shall not be opened before ten to give another hour to the voters, when the constitution certainly gives the whole day, and two more if required by a candidate? Is it indispensable that the judge, appointed by the court, should be allowed by his absence to retard the opening of the election, when provision is made to supply his place by another justice of the peace, appointed by the sheriff? Is it indispensable that the sheriff shall be present throughout the election, when the law does not appoint any thing for him to do? Are these to be deemed matter of substance, fatal to all the votes received during the irregularity, when by the poll-books you have the means of ascertaining, and in this very case have ascertained, that the votes so received were good and valid? Sir, this House has disregarded provisions as substantial as these, when the consequence of respecting them would have been to exclude legal votes. I will refer to some of the cases.

The case of Prior Lea, decided in the first session of the twenty-first Congress, was one of the strongest character, and, indeed, may be regarded as a test case of the distinction between what is called form and substance. The law of Tennessee enjoined, among other ceremonies, that, at the close of each day of election, the sheriff should, in the presence of the inspectors, put his seal on the opening in the ballot-box by which the ballots were introduced, which seal should continue until the election should be renewed on the ensuing day; and that the inspectors should take charge of the box until the polls were opened the next day, and the seal should then be taken off in their presence. Now, sir, in the case of election by ballot, these provisions are not only of the substance, but of the very essence of the regulations prescribed for conducting it. The introduction of false ballots into the boxes between the days of election, is irremediably fatal to the purity of the election. If the fact of addition can be detected, the character of it cannot. During the continuance of an election by ballot, the ballots should be guarded with as much vigilance as the vestal fire. Hence, the wisdom of that precaution which required one officer, the sheriff, to seal the box, and other officers, the inspectors, to retain its custody, and to be present when the same seal was broken at the renewal of the election on the succeeding day. The evidence in the case showed, that in one precinct the ballot-box was not left in charge of the inspectors, but with the sheriff who had sealed it, and who placed it, with their approbation, in a trunk, of which the sheriff kept the key, which trunk was placed in a room of which the occupant kept the key. In another precinct, instead of a ballot-box a gourd was used, and, instead of sealing it, the sheriff stopped up the entrance with paper, tied the whole in a handkerchief, and left it with one of the inspectors. The law was thus, in the two precincts, violated in opposite directions, each tending to the same mischief. In one precinct, the custody of the ballot-box was exclusively with the sheriff; in the other, it was exclusively with the inspectors. The manifest intention of the law was, that it should be in the custody of both—of the sheriff, by his seal, and of the inspectors, by their possession. Such was its spirit as well as its language; and the provision was one as little ceremonial or modal as any one in the law. Yet, the House being satisfied that the irregularity had, in point of fact, produced no mischief, it was disregarded.

So in the case of John Richards, (Cases of Contested Elections, p. 95,) though the election law of Pennsylvania prescribed that the army returns should be sent to the prothonotaries of the respective counties by the 10th of November, and though the return judges disregarded one of them because it was not sent till after the 10th of November, this House, nevertheless, gave the seat to the candidate not returned, who, by force of the army return that was rejected, had the highest number of votes. This was a question of time, and time is part of the controversy in the present case.

In like manner, in the case of Spaulding *vs.* Mead, (Cases of Contested Elections, p. 157,) the House, upon mature discussion and deliberation, adopted the general principle, that, being the exclusive judge of the elections and returns, as well as of the qualifications of its members, the returns from the State authorities were only *prima facie* evidence of an election, and not conclusive upon the House. And most wise as well as essential was the decision; for if the returns were conclusive, the power of judging was nugatory. So, if an inadvertent slip in any of the circumstances of an election be conclusive upon the House, the power of judging is nugatory. That case records and establishes the principle by which the present contest should be settled, as it is the only

principle which is in harmony with our institutions. "The great principle in judging of elections ought to be, that the will of the people, fairly expressed, shall govern; and that construction of the constitution and laws of the United States ought to prevail, which consists in giving effect to good votes rather than in destroying them." Another case establishes a principle of equal importance, so ably maintained by the gentleman from Kentucky, [Mr. MARSHALL,] that no candidate is entitled to a seat who is not elected by the majority or greatest number of the legal votes taken and offered at the election; and that the people shall not be deprived of their representative by the fault of their election officers, whether it be the result of accident, ignorance, or fraud. (McFarland *vs.* Culpeper, Cases of Contested Elections, p. 221.) It is the general rule, as stated by Mr. Madison, in the case of Jackson *vs.* Wayne, (Cases of Contested Elections, p. 86,) that "whoever has the majority of sound votes is the legal representative." The report now under discussion offends the law, according to my apprehension, in both particulars. It holds an alleged irregularity in the time of opening the election, in the appointment of a judge, and in the absence of the sheriff—none of them productive of the least assignable mischief—to be fatal to all the good votes received during the occurrence; and it is in favor of giving the seat to a member who, by the rejection of these votes, is the representative of a minority.

The principles, then, sir, which, in my judgment, obviate the alleged irregularities in the Garrard election, even if they must be admitted to have been such, according to the true interpretation of the Kentucky statute, are, that the election was, apparently, regular; that the judges had good authority, *de facto*, by virtue of the sheriff's appointment; that Spillman and Marksbury had, in like manner, a good authority; and that the electors, not being privy to the irregularities, if they existed, are entitled to the aid of this House to give effect to their lawful votes. This House, being the final and conclusive judge of the election, in all its parts, is not bound, contrary to the policy of the election laws of the States, to follow the regulations prescribed, with so much greater rigor than any court of law or equity would do, as to disappoint a clear right by giving destructive effect to a form that was intended to secure it. Where there is an apparent, though not an exact conformity in any point, to the regulations of the State law, the utmost legal effect that the irregularity should produce upon the votes received, is that of drawing them into question, until their validity is shown, which has been done here. If, in any case, it is impossible to estimate the effect which the irregularity has produced, that may be a reason for setting the election aside, but it cannot be for giving a seat in this House to the candidate of a minority of the qualified voters.

These, sir, are the sentiments I have thought it proper to state to the House in regard to the effect of irregularities in the execution of election laws. I will now submit to the House some reasons for the opinion I entertain, that there was no irregularity whatever in the Garrard county election.

The constitution of Kentucky provides that, "in all elections for representatives, every free male citizen, (negroes, mulattoes, and Indians excepted,) who, at the time being, hath attained to the age of twenty-one years, and resided in the State two years, or in the county or town in which he offers to vote, one year next preceding the election, shall enjoy the right of an elector; but no person shall be entitled to vote, except in the county or town in which he may actually reside at the time of the election." It also provides that representatives shall be chosen on the first Monday in August of each year, but the presiding officers of the several elections shall continue the same for three days, at the request of any one of the candidates."

By the first section of the act of Kentucky, of the 2d of December, 1799, it is enacted, "that the justices of the county court shall, at their court next preceding the first Monday in August in every year, appoint two of their own body as judges of the election then next ensuing, and also a proper person to act as clerk; and, in case the county court shall fail to make such appointments, or the persons appointed, or any of them, fail to attend, the sheriff shall, immediately preceding every election, appoint others to act in their stead." The second section enacts, "that the sheriff of each county shall advertise, at least one month before the first Monday in August in every year, the time and place of holding the election, and what offices are to be filled; and that the sheriff, or other presiding officer, shall, on the day of the election, open the poll by ten o'clock in the morning, and continue the same open until at least one hour before sunset each day." The third section enacts that the judges of the election and the clerk, before proceeding to act as such, shall take the oath prescribed by the constitution, and "that they shall attend to the receiving of the votes until the election is completed, and a fair statement make of the whole amount thereof;" and it requires that the person entitled to suffrage shall, in the presence of the said judges and sheriff, vote personally and publicly, *viva voce*. Unless the sheriff or one of the judges shall know the person offering to vote to be entitled to suffrage, the clerk is directed to administer to him the oath that he believes he is twenty-one years of age, that he has resided two years in the State, or that he has resided in the county one year last past, and that he has not previously voted at that election. These are all the provisions of the constitution and law of Kentucky necessary to the inquiry.

If the sheriff could open the election before ten, the appointment of Moses Grant was legal, for William Wheeler had then failed to attend; and this is the first question.

The Committee of Elections have admitted, (and no one could withhold the admission,) that the direction to open the polls by ten o'clock, implies an authority in the sheriff to open them before. It is the necessary effect of the terms used. The Legislature meant to prescribe a minimum time for keeping the polls open, and not to prohibit a longer time. They were to be opened by ten o'clock, and to be kept open until at least one hour before sunset. It was within the discretion of the sheriff to open them before ten, and to keep them open until sunset, or after. So clear is this interpretation, that the committee have been compelled to say that they might consider the votes before ten o'clock as legally taken, if received by the judges appointed by the court. But while they say this, they deny the authority of the sheriff to appoint any persons to act in the place of those appointed by the court before that hour; and they attempt to justify the distinction, first, by the position that, until they have failed to attend, the sheriff cannot appoint others, and "that they cannot be said to have failed to attend until the hour pointed out by law for opening the poll shall have arrived;" and secondly, by a suggestion of the great mischiefs that might arise by authorizing the sheriff to supersede the appointment of the court by surprise. The whole view of the committee is, in my opinion, without justification or color of support.

The act points out no particular hour for opening the polls, but names an hour which the sheriff cannot suffer to pass without having opened them. His authority, by the law, is as absolute to open them before that hour, as it is to keep them open until sunset, or to advertise the election for a longer time than a month. He is bound to consult no pleasure but his own; and in the section which gives him this uncontrolled power, the judges appointed by the court are not mentioned, nor their presence or absence referred to. Their absence, therefore, is no restraint upon his authority. It is an error, then, to say

that the judges have not failed to attend until the hour appointed for opening the polls, for there is no such hour.

Again, sir: if the appointed judges fail to attend immediately before the time of opening the election, be that time when it may, the authority of the sheriff to substitute others is complete. In the section which gives him this authority, the hour by which the election must be opened is not mentioned; nor the sheriff's authority to open it referred to. His authority is, therefore, in no way dependent upon the hour.

By one section of the act, then, the sheriff has an absolute power to appoint judges, if those appointed by the court do not attend immediately before the polls are opened; and, by another, he has an absolute power to open the polls at any time he thinks fit, before ten o'clock. It offends against the plainest construction of the act, consequently, to take away from the sheriff the uncontrolled power of opening the polls at an earlier hour than ten, which the second section has given him, by making it dependent on the presence of the judges, whose non-attendance at any time of opening the polls he is by the first section expressly empowered to remedy. The plain meaning of the whole is, that the sheriff may open the polls before ten, if he sees fit; and if the judges do not attend, he may appoint others. If the law had intended to postpone the election until ten, unless the judges should previously appear, it is impossible to imagine a reason why it did not say so. And where, sir, is the great mischief of confiding such a power to the highest executive officer of the county—a man, it is to be presumed, possessing, and entitled to the confidence of the people, having a common interest with them, living among them, and bound not only by oath of office, but by the highest personal interest, to do equal justice in such a matter to all parties? What propriety is there in treating the sheriff of the county as an officer to be justly suspected of partiality, and, upon such an hypothesis, to take from him the power which the law has given to him of enlarging the time of election, by which the people cannot possibly be injured? What mischief can result from his even purposely supplanting the justices of the county court by his own nominees? They must be justices also, and duly sworn; and if they receive illegal, or reject legal votes, the poll-books are the record by which they will be confronted, and their injustice exposed and remedied. It is sufficient to say that the law manifests no such suspicion of sheriffs generally, and that in the present case the report of the committee does not suggest the smallest ground for it. In every case, if the appointed judges will but take the precaution of being at the place of election in due season, it will prove a simple and effectual remedy for the worst designs which the sheriff can possibly entertain.

But try a little further the proposition that, unless the judges attend before ten, the sheriff cannot open the polls. Suppose they are both dead; even this, according to the views of the committee, will not justify the appointment of other judges before ten. They, certainly, in that event, cannot attend before ten, and it is as certain that they cannot fail to attend at ten, until ten arrives. Suppose they are sick, and cannot come; the difficulty is precisely the same. Suppose there is a positive refusal to attend. In this case, also, the sheriff must wait till ten, if it be true, as the committee suppose, that the sheriff can appoint only on failure to attend, and that there is no failure until that hour. In fine, sir, neither refusal, sickness, nor death will, according to the committee's view of the act, justify an appointment of other judges by the sheriff, and, consequently, an opening of the polls before the hour of ten. Such an interpretation of the act may suit the present case, but can hardly suit any other.

The committee do not, themselves, appear to be satisfied with it; for they proceed to say, that "they might not have rejected the votes taken before the hour of ten, if Grant had continued to act, and attend to receiving the votes until the election was completed, and a fair statement made of the whole amount thereof. But Grant and Wheeler could not both be legal judges of the election." By what reasoning the continuance of Grant as a judge, after the hour of ten, can be made to cure the illegality of his appointment before, if it really was illegal, I am unable to comprehend. The suggestion would seem to belong to a state of mind not entirely clear upon the point of illegality. If Grant was not duly appointed when he was appointed, it would rather seem that the longer he continued in office the greater would be the illegality. But, sir, the position that Grant and Wheeler could not both be legal judges of the election is not correct in itself, any more than it is a reason for holding that if Grant alone had continued to be a judge, it would have made him, though illegally appointed, a valid judge from the beginning. Grant and Wheeler could both be legal judges of the election at different stages of it, and so, in my apprehension, they were. Wheeler was one of the judges appointed by the county court, and whose appointment extended throughout the whole year. He did not cease to be a judge of election, because on one occasion he made default in attending. The act supposes, and intends, that his authority shall continue, because provision is made for his failure to attend "immediately preceding every election." If he should attend on the first day, and fail to attend on the second, the power of the sheriff is competent, by the clear spirit of the act, if not by its letter, to supply his place, as much as if he had not attended at all; and so if he dies, becomes incapable, or insists upon retiring in the course of the election. There is, indeed, no remedy for such a mischief, except in the sheriff's power. In like manner, if the appointed judge makes default on the first day, or at the first hour of the election, and the substituted judge, after commencing the election, shall himself die, become incapable, or refuse to proceed, as the original authority of the judge appointed by the court continues in force, he may, by virtue of that authority, appear, and lawfully proceed with the election. The true extent of the sheriff's power may be known from its object, which is to supply a judge as far as the absence of the appointed judge may require. It is supplementary, and it should be so interpreted as to give validity to the sheriff's appointment whenever the annual judge is absent, and to give authority to that judge whenever he exercises the office. Why, sir, should a strict interpretation be adopted to defeat an election, when in any event the people will have a qualified judge appointed by the court, or, in his default, by the sheriff. Instances of more liberal interpretation are frequent in the history of the construction of statutes. The objection made upon this floor, and also by the committee in their report, that the judge who begins an election must conclude it, because he must, according to the act, "attend to receiving the votes until the election is completed, and a fair statement make of the whole amount thereof," admits of an easy answer. The act is here describing the general duty of the judges, and not the particular duty of one and the same judge. By the interpretation of the committee, the death or sickness of one judge would defeat the whole election. By the true interpretation of the act, the judge who begins, and the judge who concludes, do together attend to receiving the votes until the election is completed, each performing his duty completely, as far as he goes; and "the fair statement of the whole amount" may as well be made by the clerk, under the inspection of a judge who has been there but part of the time, as by one who has attended the whole time. It is a statement mechanically made from the poll-books.

Upon this part of the case, sir, I do then confidently submit to the House, that, whether we resort to those principles by which a public authority, in some respects

defective, is regarded as valid in favor of innocent third persons, or we go to the act of Kentucky, interpreting it by its spirit as well as its terms, as all statutes should be, the House must come to the conclusion that the votes of qualified voters, received while Moses Grant acted as one of the judges, have been erroneously rejected by the committee, and ought to be counted for the respective parties in whose favor they were given. It is not unworthy of remark, that for this alleged defect of appointment, thirty-five legal votes have been rejected by the committee in a case in which it has been made manifest that the officers who conducted the election were high-minded, honorable men—that not an intentional fault in the course of the election is imputed to them—that all their acts have been scrutinized, to the satisfaction of all parties, without leaving a reproach upon any one of them, and that the opening of the polls before ten, and the consequent appointment of Moses Grant, were at the instance of the people, and for the accommodation of the people, and to allay an apprehension from the existence of cholera in the same place in the two preceding months.

The absence of sheriff Kennedy on the second day presents the remaining question. Here, also, it is to be remarked, sir, that an absence, agreed to by the judges, and required by an indispensable domestic duty, which no man will say the sheriff could have disregarded, and his attention to which produced no one imaginable inconvenience, is made a ground by the committee for rejecting forty-five unquestionable votes; and no phrase in the law can be pointed out to give color to such a proceeding, except that which prescribes that "the persons entitled to suffrage shall, in presence of the said judges and sheriff, vote personally and publicly *viva voce*." The sheriff has not authority to receive or reject a single vote. On this head the law is clear. A difference of opinion in the judges does not make him the umpire. His duty is to open and to close the polls; and the only legal effect of his presence during the election, is, that if a voter is unknown to both the judges, and known to the sheriff, he may, perhaps, though by no means necessarily, be excused from making oath to his age and residence. If unknown to all, he must be sworn. The sheriff is, undoubtedly, presumed to be present, not to take part in the election, but to preserve the peace, as well as to open and close the polls; but at no time after the polls are opened, and before they are closed, is his presence essential. The clause in the law has an entirely different object from that attributed to it. It was certainly not meant to require the presence of the judges, for they, by a previous clause, are expressly required to attend to the receiving of the votes. It was not meant, then, to require the presence of the sheriff; for judges and sheriff are spoken of together. The object, and the only object, of the clause was to secure public and personal *viva voce* voting. "The persons entitled to suffrage shall, in the presence of the judges and sheriff, vote personally and publicly *viva voce*." The action of the sentence is upon the vote, and not upon the presence of the officer. If the vote is publicly and personally given *viva voce*, the whole object of this clause is attained. If the law required the sheriff as well as the judges to receive and judge the votes, a different case would be presented. But the sheriff has nothing to do with the votes, not even to cry them; that ceremony, though it seems common at elections in Kentucky, not being prescribed by the law.

If, however, the sheriff is one of the tribunal which conducts the election, and has a voice in receiving and rejecting votes in common with his colleagues, the objection to votes received during his absence admits of the conslusive answer, that, being a judicial body, and the law not directing the contrary, a majority was sufficient to constitute the court, so that the absence of any one of the three was immaterial.

Finally, Mr. Speaker, let it not be forgotten that the principles for which I have contended, and the answers proceeding from them to the different objections of the committee and its members on this floor, have for their object to sustain the most precious right that is known to freemen—a right that has been exercised by the qualified voters of Garrard county, without a suspicion of error in either the manner or the substance of the election, and where the judges and the sheriff have obtained from the committee the praise of motives not to be impugned, and of respectability and integrity which it has gratified them to declare. The effort on the other hand has tended to defeat this right, and to give a triumph to a minority, by a course of construction exceeding, in literal adherence to forms and ceremonies, the example of any court of law whatever.

One word, sir, in regard to the students of theology at Danville, and I will conclude. The committee adopted the rule, that "the residence of young men from other States and counties at schools, academies, or colleges, as scholars or students, was not such a residence as entitled them to the right of suffrage in the county where they were for the time being;" and they applied the rule to the students of theology at Centre College, in Mercer county. These rejected students were one and all of them above the age of twenty-one. In the language of one of the witnesses, they were their own masters, had come to college on their own means, or on means furnished by others than their parents, and were preparing for the ministry, to go, after their studies should be completed, where "Providence might seem to direct." They were detached by their actual independent residence, and by their preparation for the ministry, from the parental domicil. They had embarked for themselves in their own self-denying vocation. Their case stands distinguished from that of students in a condition of pupilage at seminaries for general education. They had performed militia duty, and worked on the roads as citizens of Mercer county. One of them had not made his father's house his permanent home for the last seven years. Another, whose father was dead, but whose mother was resident in Jefferson county, had for two years resided in Mercer county as a student of the college, and for two years before had worked at the printing business in Louisville. He had no intention of ever living in Jefferson county again; and, when he went there in vacation to see his mother, it was only as a visiter. All of them had resided two years in the State, or one in the county of Mercer, and they actually resided in that county when their vote was offered and received. The committee have truly said that they "could not be entitled to vote in the counties where their fathers respectively resided, and also in the county in which the college is situated." Nothing can be more clear. They never asserted these inconsistent rights. The committee have also said that "they were not in such a situation as would authorize them to select in which of two counties they would exercise their elective franchise." This is true, also; that is to say, they could not vote in either of two counties, as they pleased; nor did they claim the right. The committee further say, that "if any of them had been at their family residence they would unquestionably have voted, and the committee can find no principle or authority which would have warranted their rejection." If this were also true, (which the committee cannot possibly know, for no one can tell what the students would have unquestionably done had they been at their family residence,) to what purpose is it true? They were not at the family residence, and did not vote there, but voted at their actual residence. If their constructive residence was as the committee suppose, it did not in the slightest degree affect their right to vote in Mercer. The committee have, in my judgment, mistaken the meaning of

the constitution of Kentucky. That constitution refers to residence of more than one kind—residence that gives the right, and residence that regulates its exercise. The former may be constructive or actual; the latter must be actual. If the students at Mercer county had constructive residence elsewhere in Kentucky, such residence might qualify them to vote; but if they actually resided in Mercer, as beyond doubt they did, they could not vote elsewhere. The committee have, therefore, by their report, entirely disfranchised these qualified voters by their doctrine of constructive residence. They could not vote where their parents resided, because they did not actually reside there; and the committee hold that they could not vote where they actually resided, because their constructive residence was in another part of the State. The plain and obvious truth of the case is, that they were qualified to vote by residence, constructive or actual, no matter which; and that the place where their qualification was alone to be exercised was Mercer county, where they actually resided. The votes of the theological students have, therefore, upon every ground that can be assumed, been illegally rejected by the committee.

The result of the whole, sir, I conceive to be as follows: taking the polls as the majority of the committee have reported, and admitting the committee to have been right in every decision, except the three which I have discussed, the majority of legal votes is still in favor of Mr. Letcher, as it was by the poll-books certified by the clerks of the different county courts. The able report of the minority shows a state of the polls much more favorable to Mr. Letcher; but, without including these corrections, the result will be the same if the House shall amend the report of the majority only so far as the principles I have discussed require.

SPEECH OF MR. PLUMMER,

Delivered in the House of Representatives of the United States, May 26, 1834.

The proceedings of a meeting of the citizens of the county of Pike, in the State of Mississippi, in relation to the United States Bank, the removal of the deposites, the derangement of the currency, the pecuniary distress in the country, the powers of the Executive, the course pursued by their Senators and Representatives in Congress, and public opinion in relation to those questions, presented by Mr. Plummer on the 19th May, being under consideration--

Mr. PLUMMER said he considered the question of rechartering the United States Bank, as well as the subject of the removal of the deposites, opened to a full discussion by the resolutions and proceedings under consideration. He intended to embrace that opportunity to discuss both of those subjects somewhat at length, and the House need not be taken by surprise if he should follow the example so frequently set by others, and make some desultory remarks in relation to political matters in general, and now and then hint at things in particular. He was not, however, disposed to stand in the way of those gentlemen who had petitions to refer, and who had been anxiously waiting for the States which they represent to be called for several weeks. He therefore moved a postponement of the subject until Monday next. The motion was negatived. Mr. P. then rose and proceeded:

If it was the pleasure of the House, he said, to hear him at that time, he had no reason to complain himself, and he trusted, after having given due notice of his intentions, that there would be no cause of complaint against him, on the part of others, if he should occupy the time of the House for several hours. After all the ingenuity, talents, and learning, of the most distinguished gentlemen of both Houses of Congress had been exhausted, during a six months' discussion of the great questions which agitate the nation, it cannot, said Mr. P., be reasonably expected that I will be able to throw any additional light on the subject, nor that I shall be able to use the ideas advanced by others without subjecting myself to the charge of plagiarism. In order to meet the charge in anticipation of the accusation, I give notice that I intend to avail myself of the arguments advanced by other gentlemen, both on this floor and elsewhere. I set up no claims to originality on these questions. I therefore take this occasion to tender my acknowledgements, in advance, to the author of the "American Banking System," which I consider the most useful and valuable work on that subject extant; to an anonymous writer over the signature of Marcellus, in 1794, and to what other authorities I may, in the course of my remarks, think proper to draw upon, without stopping, as I proceed, to give credit to particular individuals, who have written or spoken on the subject. If the arguments used by others do not gain any additional weight by a repetition, they may, by that means, get disseminated among the people of Mississippi, where they would not otherwise find their way. Before I get deeply involved in the intricate question of the bank, I feel it due to myself, as well as those by whom I am sustained at home, to inform the House and the country of the peculiar attitude in which I stand in relation to the great political parties that divide the people of the several States of the Union.

I belong to that class of politicians in Mississippi who succeeded, in 1832, in achieving that great political revolution which expunged from the constitution of the State those aristocratic features that conferred on the favored few rights and privileges withheld from the great mass of the people. In 1830 I was supported by the democracy of the country, without distinction of national party. In 1832, after I had served one session in Congress, I was opposed by the national republicans, in consequence of my opposition to the United States Bank: I was opposed by the nullifiers, in consequence of my opposition to Clay's colonization land free negro bill, and because I supported the general measures of the administration: I was opposed by the would-be leaders of the Jackson party, and their presses, under a pretence that I was not sufficiently devoted to the President. I was, however, successfully and triumphantly sustained by the great mass of the people, by the democracy of the State, by the working-men of the country, for the purpose of sustaining the principles which they advocate, without regard to men. During the last summer there was a cross-fire levelled at me from the two extremes. The national republicans and nullifiers cannonaded me upon the bank and land questions, and the Simon Pure Jackson presses on the enforcing bill. Although I am sustained by a large majority of the people I have the honor in part of representing, it is a remarkable fact that, out of the whole number of presses in the State, I do not know of one that supports me or the principles I advocate. Standing, therefore, in the attitude I do, with all of the presses and the most of the talents of the three great formidable parties and the wealth of the State arrayed against me, and supported here only by a few select, choice spirits, scarcely known as a political party, I feel it my duty on this occasion to plant within the hall of the national Legislature the standard, and unfurl the flag of that party, under whose banners a few of us have enlisted, and whose principles, in my humble opinion, are alone calculated to save our bleeding constitution from destruction, our already tottering Union from dissolution, and the people from slavery, bloodshed, and oppression. An abolition of all licensed monopolies, universal suffrage, no property qualifications for office, equal, universal education, abolition of imprisonment for debt, abolition of capital punishments, an ad valorem system of taxation, the election of all officers directly by the people, and no legislation on the sub-

ject of religion, are some of the leading measures advocated by that despised party of which I have the honor of being an humble member. I am proud to acknowledge that these are the principles which are now triumphant in the democratic and patriotic State that I have the distinguished honor in part to represent; and they are the principles which must be sooner or later advocated by every State in the Union. I am still prouder to acknowledge myself guilty of the charge frequently made against me, of having been instrumental, in some small degree, in bringing about this political revolution, and of having first introduced the subject into the legislative halls of the State of my adoption. If ever there has been a time, since the establishment of the banking system in our country, when the friends of equal rights, when those whose motto is, "the greatest good of the greatest number," when the democracy of the country, the great mass of the people, had cause to rejoice, it is the present. I do not rejoice at the sufferings of my fellow-citizens. A man who can stand by and witness the pecuniary distress which pervades the whole country at this time, without sympathizing with those who suffer, is less sensitive than I am, and has nerves stronger than mine. But I rejoice that the cause of the distress is about to be eradicated from the land, I trust never more to oppress the people of this country. I rejoice that the time has at length arrived when the attention of the people is likely to be aroused to a sense of their rights; for let me assure you, sir, that this American banking system, this rag-money system, this system of legalized monopolies, which makes the rich richer and the poor poorer, will not bear an investigation by the great mass of the people, who always, sooner or later, look to their own interests. I rejoice that the time is not far distant when the people will rise in the majesty of their strength and stamp the seal of condemnation on the moneyed monster which has produced that distress, unparalleled in the history of our Government, which is every day represented to us in a language not to be misunderstood from all portions of the country, and on those political jugglers who have been instrumental in creating the present excitement for party purposes. In Great Britain exclusive privileges are conferred on the aristocracy, on the nobility, on individuals who are called lords. In our own country exclusive privileges are conferred on corporate bodies called banks. In both countries the laboring class of the community, who compose the many, are made "hewers of wood and drawers of water" for the benefit of the lordly few.

At a time like this, when the acrimony of party spirit displays its angry clouds over every legislative assembly throughout the Union; when party names and distinctions are artfully introduced into every portion of the country, by the aspirants to office, for political purposes; when jealousy and suspicion seem universally to pervade the whole community, I consider it the duty of every friend to his country to speak his sentiments freely, and call the attention of the people to their true interests. When the public mind is highly excited, I am well aware that it is not in a condition to listen to the dictates of reason. "In the paroxysms of such a moment, violence is often regarded as patriotism, patience and moderation as pusillanimity; the counsels of the first are regarded as the oracles of wisdom, the advice of the latter denounced as the dictates of cowardice." In times like the present, it is a difficult task for an individual occupying a public station to sustain himself by an impartial appeal to the understandings of the people, without leaning on one of the prominent parties for support. It is a Herculean task for one whose advantages have been as limited and whose abilities are as humble as mine, in his political course to attempt to advocate the interests of the great mass of the people on all occasions, without regard to the party organizations of the aspirants to power. There has been no regularly-organized party in the country since I have had political existence, of whose principles I could entirely approve, save one, and that has too unfashionable a name for a gentleman to acknowledge on this floor, unless he is prepared to subject himself to ridicule. So humble are the pretensions of the individuals of that party, that the gentleman from Kentucky [Mr. HARDIN] did not deem them worthy of a place on his list of the parties, made out the other day, which compose this House. I did not, however, consider his neglect to mention the name as intending any disrespect towards his honorable colleague [Mr. R. M. JOHNSON] at the head of the list, nor those of us who stand by his side in defending the doctrines of the party. However much I may dislike to be associated with those who not only refuse to defend me when assailed by their opponents, but even disown me unless they have immediate use for my services, I find myself compelled to abandon the principles advocated by the great mass of the people, whose cause I have always espoused, or enlist under the banners of the administration on the great questions now under consideration before the American people. Here there are but two sides to a question. During this session of Congress there have been but two parties on this floor; the one in favor of the administration and against the bank, the other in favor of the bank and against the administration. In taking sides with the administration, although I disapprove of some of its measures, I will not be understood as being personally opposed to the President, the heads of Departments, or any of its leading friends in or out of Congress. I have been a firm and undeviating supporter of General Jackson ever since I have been eligible to a vote, and still have confidence in him. All my bitterness of feeling, if any I have betrayed, is confined to office-holders, office-seekers, and prominent friends of General Jackson in the State I have the honor in part to represent. None of them, with a few honorable exceptions, have ever sustained me, and I shall consider myself in danger whenever they do. In conjunction with my friends, I pursue a different course from them. We fight the battles of the administration upon great national principles, without having the confidence of the party here. They huzza for General Jackson without regard to principle, and, as soon as the election is over, claim, as the exclusive friends of the administration, the spoils of victory. I sustain the measures of the administration in the councils of the nation; they act the part of spies and informers against me and my friends, and make all the recommendations for office. I defend them when assailed, for the honor of the administration. When in the act of defending them, they are permitted to prefer secret charges against me, in their official communications, calculated to tarnish my reputation. If the administration does an unpopular act, I am held accountable, while they disclaim all responsibility. I mean no personal disrespect towards my colleague in thus speaking of those whose champion he is on this floor; he was sent here by them for the express purpose of representing their interests, and I hope he will attend strictly to them! They have no fixed principles save one, and that is, the principle of wriggling themselves into the favor of those who have the control of the patronage of the Government. They would sell the liberties of the people for the sake of office; but I am thankful that their days are numbered. The people are awakening to a sense of their duty. When called on to vote upon a party question involving no principle in this House, I shall do as I have heretofore done, ever since I have been in Congress, vote with the friends of the administration, because I am inclined to favor its leading measures. I will not go against the party until the party goes against the principles of the working-men. Efforts have been made to influence the public mind and mislead the people on the bank question. It is high time to unfold facts and exhibit the true interests of the coun-

try to a generous people, who only wish to know their duty to perform it, and to understand their happiness to pursue it.

It has been frequently asked, why is it that so many, returned to Congress as Jackson men by their constituents, are induced, immediately after their arrival here, to abandon Jacksonism, and oppose the measures of the administration? Questions of this kind, predicated on the celebrated letter of my colleague, have been asked by the leading opposition presses of the country. They have been emphatically asked, as though no satisfactory answer could be given. It is said not to be interest, nor love of power, for that would incline them to continue in support of the measures of the administration; but it is said to be an honest conviction, on the part of those who abandon the administration and join the opposition, of the impurity of the executive officers of the Government, and the injurious effects of their measures on the community. In consequence of the delicate state of my health, I have taken no active part in the business of legislation during this session. When not confined to my room, I have been a silent observer of passing events, and a mere "looker-on in Venice." I have mingled more than usual with the passing crowd of visiters, and the hangers-on about the Capitol, who have so frequently thronged the galleries of the House, and the floor of the Senate chamber, during the session. When in the House, I have been frequently driven from this floor by the unwholesome state of the atmosphere, and compelled to take refuge in the gallery; for fear, however, that I may not be believed, I might as well have the gallantry to admit that I have sometimes been unconsciously drawn there by the magnetic powers of those attractive bodies who so frequently honor us with their presence. I have, therefore, had a fine opportunity of watching the process by which those who come here Jacksonians are converted, and transferred into the ranks of the opposition. The process is simple, and the political swindlers have reduced the practice of cheating the people out of the votes of their representatives to a perfect system, on a scientific plan. The process is simply this: on the arrival of a young member in the city, he is waited on by some of the deputies of the party, and introduced to such of the leaders of the opposition as were once the friends and supporters of General Jackson. They take occasion to speak of the patriotism of the President, his devotion to the interests of the people, and the military services he has rendered his country, in the most exalted terms. These professions of friendship for the man gains them the confidence of their subject. They then regret, almost with tears in their eyes, that they cannot support every measure of the President, affect to attribute all the errors of the administration to a set of unconstitutional advisers that he is surrounded with, which they denominate by the appellation of "cabal," "backstairs cabinet," or some other equally odious and unpopular epithet. The unsuspecting victim is called on again and again, and the same train of thoughts forced on his mind, until a strong impression is made of their truth. He is kept as much as possible out of the company of those who sustain the administration, and, by invitations and polite attentions, made to associate almost exclusively with those who oppose its measures. They pursue this course, if not repulsed at the onset, until they get the individual to acknowledge that the administration has some errors, that he is opposed to being controlled or dictated to by the "kitchen cabinet," and that, notwithstanding his personal feelings, and the devotion of his constituents to the President, he only feels himself under obligations to support the administration so far as he approves its measures. This done, and they have him in a fair way. The fashionables who visit the city from all quarters of the country are taught to believe that it is not genteel to be in favor of the administration—that all the decency, the intelligence, and talents, are on the other side. Even the softer sex are made to act their part. They are taught to believe that it is not fashionable to speak well of any one who is not a national or a nullifier. If the victim is from the South or West, an appeal is made to his high sense of honor, and to his chivalrous feelings, to know whether he will subject himself to the wearing of a party collar; whether he will be under the malign influence of the "kitchen cabinet;" and the shackles of party trammels and "decided party discipline," are held up to his view, and he asked if he has not too much independence to wear them. These arguments are irresistible to those who have weak nerves. It requires more than an ordinary share of moral courage to resist them. I almost wonder that there are any who can resist the arts and intrigues of the opposition. It is to me a strong evidence of the purity of the intentions, as well as the firmness, of those who sustain the measures of the administration. In order to convince the fashionables, the exquisites, the nullifiers, the nationals, and particularly the ladies, that they are not under the influence of "party trammels" or "party discipline," they are compelled to take the first opportunity to record their votes on some incidental question against the administration. This once done, and, notwithstanding their professions, the work is completed. They are then told that they have forfeited the confidence of the administration, and incurred the displeasure of the Executive; and if they attempt to get back into the good old track, the lash is applied to their backs, and they are forced to wear the collar of the opposition instead of the administration, or incur the displeasure of the belles and dandies. The fashionables, whenever the signal is given, flock to the House and the Senate chamber, to hear them abuse the Chief Magistrate. The efforts of the most ordinary minds are pronounced the greatest exertions of human genius. Their low and vulgar epithets are trumpeted forth as the greatest specimens of American oratory. They are flattered, cajoled, caressed, and puffed; and those who have no pretensions to talents, and are too stupid to use abusive epithets, are called handsome, and praised for their beauty, by way of rewarding them for their traitorous conduct, and for betraying the confidence reposed in them by their constituents.

They curl their lips, and speak in the slightest terms of the ablest efforts of the leading members on the side of the administration, because it is not fashionable to speak well of General Jackson, or any one who supports his measures. When the individual has the moral courage and the good sense to resist these artifices, resorted to by the opposition, they set their whole corps of venal letter writers on him, whose business it is to manufacture lies to order, and denounce him in the bitterest terms for every thing that is odious and contemptible. His constituents are told, through the medium of the public press, at the expense of the United States Bank, that he is under the influence of the Magician, the New York regency, the kitchen cabinet, or some other horrible animal about to destroy the Government, and erect a monarchy on its ruins. Those who can neither be flattered nor persuaded from the path of their duty, they attempt to drive; and those who will not be driven, they attempt to tarnish their characters and destroy their reputations in the estimation of their constituents. I will be a little more explicit, and confine myself directly to the question under consideration, for I very much fear that I shall not be clearly comprehended. If the victim is a member of the House, he tells those who inquire of him, that the removal of the deposites "was a measure totally uncalled for by any interests connected with the finances of the General Government," which, he says, "is a totally different question from that of a recharter of the bank;" and that, therefore,

he shall vote for a restoration of the public moneys, but against a recharter. When, however, he finds himself compelled, after taking the first step, to continue with his new associates, or still subject himself to the odious appellation of a "collar man," he gives his vote in favor of a recharter of the bank, without qualification. If he is a member of the other branch of the national Legislature, he is "willing to support the administration in every thing which is right," declares himself in favor of the resolution simply declaring the reasons assigned by the Secretary of the Treasury for the removal of the public deposites insufficient and unsatisfactory, but decidedly opposed to the one pronouncing judgment of condemnation against the President of the United States for an alleged violation of the constitution and laws, without granting to him the privilege guarantied to the most humble citizen, of being confronted by his accusers, and of being heard in self-defence. When it comes to the test, he, too, is whipped into the measure; and by the same process forced to vote for the whole of the resolutions, in direct opposition to his declared sentiments. In order to console the feelings of their conscience-smitten victims and as a kind of apology to their constituents for the company they are found in, they are, together with their new associates, given a new name. And what do you think it is? Why, sir, if you had not already heard, with thirteen Yankee pedlers to help you, you could not guess in a month. It is, sir, the name of whigs! Yes, sir, they are christened, after their political regeneration, by the name of whigs! By whom is this new and popular name given? Who is the high priest on the occasion? If you believe me, sir, it is none other than the brave, high-minded, honorable, chivalrous Colonel James Watson Webb, of mahogany pistol memory! Of what materials is this new party composed? It is an amalgamation of the old Adams, or Clay, and Calhoun parties; of the nationals and nullifiers, of the high pressure tariff and pretended free trade advocates; of consolidationists and disunionists; of those who believe a bank important to the very existence of our Government, and those who pretend to believe the present charter a violation of the constitution; the federalists and disaffected republicans; those who opposed the election of General Jackson, and those who supported his first election, but fell out with him because he would not sacrifice principle and use his influence to make their favorite his successor. This is the heterogeneous mass of materials composing these new-coined patriots, these Webb, Webster, Clay, and Calhoun whigs. Fine company this, indeed, for a professed democratic Jacksonian republican! Who are the tories of the present day? Not those who opposed the last war; not those who discouraged the enlisting of soldiers, and the raising of money for the purpose of carrying it on; not those who raised the blue lights as signals to guide the enemy where they could plunder and murder our citizens. Oh no! they are the whigs. But those who fought the battles of the Revolution and the late war; those who periled their lives, expended their fortune, and shed their blood, in defence of the rights and liberties of the people; they are the tories. Yes, sir; Andrew Jackson, the soldier of two wars, the one for our liberties and the other for our rights, and his associates, are now denounced by these new-coined and self-styled whigs as tories; and for what, sir? Why, for daring to oppose an irresponsible corporation, a moneyed monopoly, about to overthrow our Government, destroy our institutions, and enslave the people. If to be associated with Andrew Jackson, the hero of New Orleans, and Richard M. Johnson, the hero of the Thames, and others who prefer liberty to slavery, the rights of the people to a rag-money banking system, then, sir, am I proud of the appellation, and glory in the name. Any thing but a sacrifice of principle to keep out of bad company. I have cause to congratulate myself, and thank my constituents for withdrawing my name from the company of those whom I am ashamed to acknowledge as my political associates. I have reference to the proceedings of a public meeting held at Vicksburg on the 21st of March last. A resolution was passed approving of the course of Senators Poindexter and Black, and the honorable Harry Cage, on the subject of the removal of the deposites. I read from a Mississippi newspaper: "Mr. Cornell moved to insert the name of F. E. Plummer after that of Mr. Cage." After some discussion and explanations, "Mr. Cornell withdrew the motion, amidst the acclamations of the assembly." Was not this, sir, a fortunate escape! Have I not cause to rejoice, not only because I made a narrow escape from these new-coined whigs, but is it not an evidence of my growing popularity! I was the only person the mention of whose name drew forth the acclamations of the assembled crowd; and, what is still more flattering to my feelings, it was not on the presentation, but on the withdrawal of my name from among the names of these new-coined Daniel Webster, Henry Clay, Hartford convention federal whigs! The House will pardon me for adverting to a complimentary notice of myself, which my vanity would not allow me to pass unnoticed! I will also here take occasion to notice one of the resolutions passed by a portion of my fellow-citizens of Jefferson county, held at Fayette on the 28th ultimo. They took that occasion to "highly approve of the honest, upright, and independent conduct" of those who have knowingly and wilfully violated the will of their constituents, and betrayed the confidence reposed in them by the democracy of Mississippi, and denounce me as the "ready and unflinching tool of the party in power, and no longer the fit representative of a free people," because I have the moral courage to advocate the interests of the people, and oppose a moneyed monopoly in its high-handed attempts to trample under foot their rights and liberties, in defiance of the law and that of the constitution, which is the pride and boast of every true-hearted American. This is the language of the minions of the bank, published to the world, and handed around among the members of this House, for the purpose of destroying my influence and usefulness to my constituents; which they seem resolved to do, at the sacrifice of every moral principle. This is the language of a few purse-proud aristocrats and their deluded followers, sent here as expressive of the sentiments of the citizens of Jefferson county. It is a slander upon the character of the enlightened democracy of that patriotic county; and they will so find it in a day to come. I disregard their billingsgate abuse, and defy their influence. If I am not most egregiously mistaken, there is still alive in that county the spirit of a Dunbar, of a Dixon, and a Hinds, who gallantly defended the country against the power of a British army of mercenary soldiers at the battle of New Orleans, and who will again "come to the rescue," and as gallantly defend the rights of the people against the mercenary advocates of a British bank, under the same victorious citizen soldier who, on that occasion, led them to honor and glory.

It is well enough for us to understand these terms of whig and tory. Whig was an original name of reproach given by the court party in England to their antagonists, for resembling the principles of the whigs or fanatical conventiclers in Scotland. The name of tory was given by the country party to that of the court, comparing them to the tories or Popish robbers of Ireland. The whigs were opposed to oppression and the granting of exclusive rights and licensed monopolies to a privileged order of men, and in favor of the liberties of the people. In short, they advocated those principles calculated to promote the greatest good of the greatest number. The tories were for enlarging the powers of the Government, trampling on the liberties of the people, and for con-

ferring exclusive privileges on a few particular individuals, without regard to the welfare of the great mass of the people. The whigs of England and the whigs of the Revolution were opposed to the Government under which they then lived, because they were opposed to its monarchical principles, which held the people in bondage and usurped those inherent rights guarantied to them by the laws of nature. They wished to destroy it and establish a free Government, securing to them equal rights and equal privileges, on its ruins. There is no other analogy between these new-coined whigs and those of the Revolution, other than such as arises out of the fact of their opposition to the present administration of the Government. These self-styled whigs of the present day are opposed to the Government under which they live, and are for destroying it, because those who administer it are in favor of abolishing all licensed monopolies, and opposed to the conferring of unconstitutional and extraordinary powers on a privileged order of men, to enable them to control the wealth of the nation, and consequently the destinies of the people.

It is a matter of great amusement to watch the movements of the new-coined whigs, composed of the whole heterogeneous mass of discordant materials forming the opposition to the administration, who have attempted to monopolize to themselves this popular cognomen, for the purpose of concealing their real designs and adopting a name which will render them popular and draw the great mass of the people to their standard and get them to enlist under their banner. The people are not to be deceived by names. My constituents have the sagacity to discover there is mischief concealed under it. The nullifiers know that the people of the South will not rally under the name of national republican, and the nationals know that the great body of their party cannot consistently, and will not, rally under the name of nullification. They have therefore assumed to themselves this new name, which they consider broad enough to cover the whole ground.

The honest truth, however, is, in regard to the three prominent political parties now in existence in this country, that, with their leaders, there is no principle involved in the whole matter. It is a mere question about men. It is a mere scramble for office. It is a private quarrel between the ins and the outs. They are simply for driving those who have been selected by the freemen of this country to preside over them for the time being out of office, and placing themselves in their stead, where they can be crowned with the honors and enjoy the profits of the public offices. Such is the nature of the human heart and the inordinate ambition of man, that they are willing to sacrifice every thing sacred and dear, yea, even to destroy our happy Government, and run the risk of plunging the people into all the horrors of a civil war, for the sake of increasing their chances for office.

Such wicked and ambitious men exist in all communities. The purest republics have produced them. It cannot therefore be reasonably expected that our country should be wholly exempt from them. The history of the ancient democracies is the history of false patriots, who, with a few praiseworthy exceptions, under the pretence of being friends to liberty, have kept their countries in perpetual foreign broils, or domestic agitations and convulsions, to serve their avarice or ambition, and who have never failed to make themselves the tyrants of the people whenever an opportunity has occurred. It is by bold abuse of others, and by claiming for themselves superior patriotism, that such men lead their way to power by quieting the suspicion of the people as to themselves, and directing their jealousies to characters whose noble minds, feeling no sentiment which honor would disclaim, act and speak with the frankness and independence worthy of republicans, conscious of the purity and integrity of their intentions. In order to execute their designs, it is first necessary to destroy the confidence of the people in such men, who would otherwise stand as barriers against the object of their ambition. If we look into the history of the Roman Commonwealth, we shall find, in almost every page, evidence of the truth of these assertions. We shall there find numerous efforts to obtain power at the sacrifice of every moral principle. Distinguished individuals, occupying high places, have the effrontery to assume to themselves the high prerogative of undertaking to dictate opinions to the community, and to measure out fame and infamy to their fellow-citizens. They have the audacity to impute to men thoughts which their minds never conceived, opinions which their lips never uttered, and designs which their souls abhor. This is all done by the magic force of a few imported words, inapplicable to our country, the meaning of which those who use them do not understand, and cannot define. Let us for a moment inquire what is the nature of our Government: is it not founded on the republican principle of equality of rights; that the people are capable and have a right to govern themselves, either by themselves or by their agents freely chosen? Has not every citizen a right to think for himself, and express his opinions freely on whatever involves the interests of the country, without subjecting himself to imputations which none but base calumniators, whose ungovernable ambition induces them to endeavor to shackle the liberties of the people, would dare to make? Who authorized them to call a fellow-citizen a usurper, a tyrant, a tory, because he differs from them in opinion? Has not every citizen a right to do so? Who authorized them to assume the title of whigs, of friends to their country and the rights of the people, to the exclusion of the rest of their fellow-citizens? Does the constitution give them greater privileges, or recognise in them a superior order? Has Heaven stamped them with its peculiar mark of favor, sent them as its inspired political apostles, or clothed them with the insignia of an authority before which every knee must bend, and to which every voice must pay adoration? From the intolerance of their principles, and the want of that Christian virtue, charity, in their conduct, they cannot be regarded as the agents of a beneficent Deity. Yet they could not act with more dictatorial presumption if they were conscious of belonging to a superior order of beings, and actually derived supernatural powers from the God of Nature. But it is impossible for them, with all of their affected zeal for the good of their country, with all their professions of patriotism, and illiberal censures of men of honor and integrity, to conceal their real character and designs long from the great mass of the people. They will soon learn that a free people will not long brook arrogance and dictation from any quarter; and that they will not permit themselves to be denounced as the slaves and vassals of Andrew Jackson, because they vote for a measure of his administration. The people are too enlightened, and know too well their interests and rights, to permit themselves to be duped by such shallow artifices, suited only to times of ignorance and superstition. They cannot long impose on a people who understand and are possessed of the blessings of liberty.

It has been correctly remarked by an able contemporary writer, that there are but two interests in society—one subsisting by industry and the other by law. In one of these classifications of interest, all other special and particular modifications of interest are included. Governments are instituted for the benefit of the laboring class, but being in the hands of those who subsist by law, it is perpetually drawn towards that by the strongest cords. Unless the industrious portion of the community,

who compose the great mass of the people, distinguish accurately between those laws calculated to do them a benefit and those calculated to do them an injury, their interests are constantly sacrificed to the interests of those who subsist by law, because the law-makers are members of this latter class. All men, with but few exceptions, enjoying honor, power, or wealth, by law, or striving to acquire either, through that corrupting channel, are more or less governed by motives of avarice, ambition, and self-interest. The great advantage of our republican form of Government consists in the elective franchise reserved to the people under the constitution, by the judicious exercise of which they are capable of checking the natural disposition of legislators to favor the minor class, composed of legal or fictitious interests, at the expense of the major class, composed of natural interests, including all who subsist, not by means of legal grants or donations, but by useful industry. The propensity of law to sacrifice the great and natural interests of nations to the class of little or fictitious interests arises from the fact that, although law can enable the small class to live upon the great one, it cannot enable the great class to live on the small one. The minor class share among themselves the honors and emoluments of the Government, while the major class defray the expense of those honors and emoluments.

The minor class separate into two parties, the ins and the outs. There is a continual quarrel going on between them. The ins impugn the motives of the outs, and say they are influenced by a desire to get in; and the outs that the ins are influenced by a desire to keep in. Both the ins and outs belong to the minor class, and neither to the major class, who can neither get in nor keep in. They vote in constant opposition to and prefer charges against each other, because they stand in each other's way. Those out of office, actuated solely by a desire to get in, point the people to the abuses of power, and the mal-administration of the affairs of Government, by those in office; and the major class, composing the great mass of the people, by the exercise of their elective franchise, displace them, and put the other party in power, who laugh at their credulity, and continue, and even increase, those abuses which they have been elected to correct. Those who have been turned out commence their assaults on those by whom they have been displaced, and never cease their clamor until the scale is turned in their favor. This is the species of political gambling carried on at the expense of the major class, and the gamblers alternately win, while the great mass of the people, who pay the fiddler and other expenses of carrying on the operation, have not even a solitary chance in the game. The code of laws by which the minor class is governed consists of intrigues and stratagems to beguile the major class, and advance the interests of individuals, parties, and combinations, of which the minor class is composed. The code of the major class consists of good moral principles, by which their national rights and happiness can only be preserved.

This is the present situation of the politcal affairs of our national Government, and the true condition of the great political parties, cloaked under different names, who have kept the country distracted for several years past, under the pretence of advocating and opposing the tariff, bank, and other questions. All of them make the most solemn professions of patriotism and love of country, for the purpose of gulling the people, and carrying on their nefarious operations. During the last administration, the outs charged the ins with bargain, corruption, intrigue, abuse of power, and other high crimes and misdemeanors. The case was submitted to the people for trial, and a verdict found against them.

The present administration was placed in power for the avowed purpose of reforming the abuses and retrenching the expenditures of the Government. The same abuses are said to exist, and even to a greater extent than before, and the same charges are now, in turn, preferred against the present administration. Into the truth of these charges I am not now disposed to inquire. The working-men of the country, at the expiration of the first four years, pronounced a favorable verdict, not because they approved of all its measures, but because they had more confidence in the present Chief Magistrate than in him who was contending for the succession. It is evident, to every discerning mind, that the contest now going on between the leaders of the several political parties is about the succession to the presidency. The great struggle now is, not to put those in power out, but it is who shall succeed to the honors and emoluments of the high places at the end of this presidential term. It is a matter of some amusement to witness the workings of the discordant materials, and the scraps of parties and political factions who compose the minor class of society at this time. Those who have a fair prospect of inheriting the popularity of the present Executive sustain his course, not because he advocates the true interests of the major class, not because he opposes a licensed monopoly prejudicial to them, but because it will increase, in their opinion, their chances for office.

The other fragments of the minor class, composing the nullifiers, the national republicans, and the bank party proper, under the control of their three leaders, oppose the course pursued by the Executive, and attempt to bring the administration into disrepute among the people; not because he opposes the bank, not because he usurps powers unauthorized by the constitution, as they falsely pretend; but because they think it will add to their prospects for the succession. These three fragments, so diametrically opposed in their own interest, agree in but one thing, and that is, in destroying the character of the Executive, and bringing his administration into disrepute among the major class. They oppose him and his measures, right or wrong. They unite like a band of brothers in making their assaults upon the administration and the President's favorite for the succession. The moment, however, their attention is drawn to any other subject, they are found at daggers' points, and scratch and claw each other like cats and dogs. One party sails under the flag of nullification and the sovereign rights of the States, but can conscientiously pass over the tariff protective system, and internal improvement, and even swallow the bank, when it is thought that course will enable their leader to gull the people into the belief that he is the most suitable candidate for the chair of state. Another fragment of the party sails under the glittering banner of the American system and national republicanism, but do not hesitate to adopt the heresies of nullification, in all its hideous forms and shapes, for the purpose of winning a trick in favor of the promotion of their champion. The third fragment of the party, composed of the ultra and genuine federalists of '98, espouse the cause of the bank, right or wrong, with all of its corruptions, in the hope that their head man, once opposed to the bank on constitutional grounds, will succeed to the highest station within the gift of a free people, upon the popularity of the bank. The bank interest, however, which aspires to wealth more than honor, as regardless of the good of the country as it is destitute of a soul, cares not for him or any one else, any farther than suits its own avaricious purposes. It has but one object in view, and that is to obtain a recharter for another period of twenty years, which would so identify its interest and incorporate its influence into all the fibres of our Government, as to be equal to a perpetual license to collect the capital of the country at one point, monopolize to itself the whole banking operations of the Union, and, in fact, control the commerce, the industry, the wealth, the credit, and the currency of the

country, for all time to come. For this purpose it is necessary to destroy the confidence of the people in the present administration.

Any one, of whatever political school, whatever may be his opinions on other questions, would be acceptable to that institution in the executive chair, so that he was in favor of rechartering the United States Bank. The bank has made repeated displays of its wealth, and glitter of its gold, for the purpose of seducing the leaders of these three fragments of the minor class, and their followers, from the path of rectitude, and intimated that its influence would be exercised in favor of each one of them. They, each of them, in return, have given intimations of a willingness to prostitute their honor, and worship at the shrine of the golden harlot. Up to this time, the coquetish jade has kept them in suspense; they live only by hope and fear; at one time encouraged by her attentions, and then ready to despair because she smiles on others; they are as jealous of each other as ever were three ardent rival lovers. Which will prove the favored one, or whether her golden affections will be placed on another, time and circumstances alone will determine. When united for a general charge, they oppose "the powers that be," under the popular name of whigs. Each one calculates on rising upon the ruins of the administration. When speaking of a division of the loaves and fishes and the spoils of the expected victory, each fragment of the party claims the right of monopolizing this popular name for the exclusive benefit of their favorite leader. All of the political leaders of the minor class, without exception, are governed by motives of avarice, ambition, or self-interest; "there is none that doeth good; no, not one." How are these things to be corrected? Is there no remedy for them? There is a conservative principle in our Government, capable of correcting these abuses. There is a remedy, but it is so rarely practised that many honest individuals seem almost to doubt its existence. There is no cause for despair, and no reason why the people should fold their arms, and tacitly consent to become the slaves and vassals of these political gamblers. There is sufficient intelligence and patriotism among the individuals composing the major class, the great mass of the people, to correct the existing evils. The remedy is within the power of the working-men of the country. All that is necessary is for them to arouse their energies to action. There is intelligence enough among them to distinguish between laws and projects calculated to benefit, and those calculated to injure the country; and I know that there is still a spark of patriotism retained in their bosoms sufficient to keep the liberty, the virtue, the happiness, the honor and talents of the country from being extinguished by all of the combined powers of the fragments of parties composing the minor class, who have joined the powerful influence of the bank for the purpose of riveting on them, for all time to come, the chains of domestic slavery. Neither of the political factions now aspiring to power can succeed without their aid. The people have been deceived by false names long enough. The working-men of the country, who have the political battles to fight, and the expenses of Government to defray, ought not to permit themselves to contend for men regardless of principle. They ought to fight for principle, and place such only in power as will advocate those principles for which they contend. Of what advantage was it to the people of France to dethrone Charles X., and put another tyrant on the throne to rule over them with equal severity, and trample on their rights with the same impunity. It is a favorable omen to the working-men that the administration has been compelled, in order to shield itself from the battering rams of the other discordant fragments of the minor class, to seek protection behind their principles. It argues a triumphant victory if they will only be true to themselves and their own interests. The question is now, bank or no bank. The question is between the bank, aided by the aspirants to office, and the stability of our republican institutions. The working-men of the country will not hesitate on which side to enlist. I trust that they will not only rise in the majesty of their strength, and put down an irresponsible moneyed monopoly, but place at the head of the Government a man who is not only a working-man in principle, but one who has always advocated their interests, and is opposed to monopolies of all kinds, whether in the shape of a United States Bank or a local institution, if such a one can be found. If there is not one righteous individual to be found to save the country, we shall again be compelled to take, as a choice of evils, the one who approaches the nearest to our political doctrines, trusting to Providence for the gradual establishment of our principles. Amidst all the clashing interests of the minor class, there is but one issue made up to be sent down before the people for trial, upon the result of which the major class, composing the working-men of the country, have any prospect of being benefited; and that, as I have already stated, is on the bank question. Upon the merits of this important issue I beg leave to be heard.

REMARKS OF MR. PLUMMER, OF MISSISSIPPI,

In the House of Representatives, May 26, 1834, in continuation of those delivered on the 12th instant.

The Jones county resolutions being under consideration,

Mr. PLUMMER observed that he had finished the remarks he had intended to make on the merits of the resolutions, but before he submitted the usual motion to print and lie on the table, he felt it due to himself that he should claim the attention of the House a few minutes longer.

When his remarks, two weeks ago, on the resolution of gentleman from New York, [Mr. Selden,] in connexion with the Oneida memorial, were arrested by the Chair, as transcending the permission granted by the House, he was proceeding to reply to the pretended speech of his colleague [Mr. Cage] published under circumstances well known to every gentleman on that floor. That discussion first originated upon the Natchez resolution, presented to the House on the 26th day of March last, which came up for consideration on the 31st of the same month. He then had the honor to address to the House a few remarks, confined mostly to the expressions of public sentiment in Mississippi, and the local politics of that State. The pretended speech of his colleague, which he had the honor of dissecting when last on the floor, (on Monday, the 12th instant,) it would be recollected, was in reply to his (Mr. P.'s) remarks delivered on that occasion. One of the resolutions adopted by the citizens of Jones county was, he said, in response to the Natchez resolutions. He therefore considered this a suitable occasion to finish what he intended to say when called to order the first time by the Chair. For that purpose he asked the special permission of the House. No objection being made, he proceeded.

He said it had been stated by his colleague [Mr. Cage] that the question of the removal of the deposites from the Bank of the United States was different from the question of rechartering that institution, and consequently was not before the people of Mississippi at the last Congressional election. For the sake of argument, he would yield the point, and admit that the questions were different. He stated on another occasion what the real question was, before the people of that State. He would not repeat it. In that, it had been stated by his colleague, that he was mistaken. The sole complaint against a certain distinguished Senator, he [Mr. Cage] said, was his vote on the nomination of a minister to the court of St. James. He would now adduce a proof of his assertion:

the circular address of that Senator to the Legislature, in reply to the charges preferred against him by the people of the State. The defence set up by that gentleman shows what was the real issue before the people, and of what he stood accused.

"The relation in which I stand to you, as one of your Senators in Congress, involving the high responsibility of the representative to the constituent, imposes on me the duty of imparting to you, and through you to the people of Mississippi, the important measures which have been brought under the consideration of the Senate, and my views in reference to them, during the interesting period since I took my seat in that body.

"The propriety of this exposition, apart from considerations which might authorize you to expect it from me in a crisis of our national history so portentous as the present, is strongly enforced by the exceptions which have been taken to some of my acts by a portion of the people of the State, which a conscious rectitude impels me to justify by a solemn appeal to the justice and magnanimity of those whose confidence I have so long enjoyed, and which I feel has not been violated in the discharge of the trust to which I was called by the unsolicited suffrages of your predecessors."

In reply to the particular specification that he had voted against the recharter of the United States Bank, he used the following language:

"The bill reported at an early part of the session for this object passed both Houses of Congress by respectable majorities, but was not approved by the President. I voted in favor of renewing the charter of this moneyed institution for a limited time."

"The renewal of the charter, at this time, is recommended by considerations intimately connected with the prosperity of the agricultural and commercial interests of the country. Thirty millions of the capital of this institution is in the hands of those who reside west of the Alleghany mountains, in the valley of the Mississippi; two millions of this sum are loaned to the people of our State. It must be obvious, therefore, that to urge the bank, by closing its affairs, to withdraw this vast amount from circulation, would produce very great distress and embarrassment; the rate of interest would be doubled on every dollar borrowed by a debtor who might be compelled to meet his bank accommodations; commercial facilities would diminish, and the great staple commodity of the South would be driven to seek a market abroad, in consequence of the deranged state of the circulating medium at home. It is difficult, indeed, to calculate the mischiefs of this sudden check to the national currency, which has so long been employed in the purchase of our products, and dispensed in loans throughout the whole country. The rate of exchange, also, which has been equalized between the great commercial cities of New York, Philadelphia, and New Orleans, would undergo an immediate change, favorable to the former, and to the prejudice of the latter, and to the whole western and southern portions of the Union. To prevent these evils, and to preserve a sound paper medium whose value was the same at all places to which it might be carried, I have deemed it my solemn duty to support the present Bank of the United States. I know that the ambitious and powerful State of New York has used all its influence to prostrate this institution; the motives by which the managers from that quarter are actuated cannot be mistaken. They are sinister and selfish; having no other object than their own aggrandizement, at the expense of other sections less commercial, and generally debtors to that important commercial emporium for foreign fabrics imported into the United States, and vended at that port."

The question, then, of recharter, it appears by this evidence, was before the people. The people had at that time the votes of their delegates in Congress, and the veto message, under consideration and discussion. What the gentleman's [Mr. CAGE's] positive pledges were, he did not know, nor did he care; the facts were simply these: A portion of the people of the State were in favor of the administration. The administration was opposed to the bank. Another portion of the people were opposed to the administration and in favor of rechartering the bank. His honorable colleague was a professed friend of the administration. He took sides with the administration party and against those who advocated the recharter of the bank. He was supported by the friends of the administration, and by the administration party elected. This he admits. What is now the natural conclusion which every reasonable man must bring his mind to, after hearing the circumstances? He repeated that the conduct of his colleague amounted to a pledge to support the measures of the administration generally, or to a pledge to support such leading measures of the administration in particular as were then under discussion and consideration. If he did not mean to do one or the other, he deceived the people. This way of being politically opposed to the leading measures of the administration, and still claim to be an administration man, because he is a personal friend of the President, he did not understand. My colleague (said Mr. P.) seems determined to make a false issue between him and myself, for the purpose of diverting the attention of the people from the merits of the main question. He accuses me of casting "unmerited obloquy" on a portion of my constituents and fellow-citizens. Mr. P. said he understood that matter perfectly well.

He (Mr. C.) puts charges into my mouth against my constituents (said Mr. P.) that he may have an apology to volunteer in their defence, and appear as their champion on this floor. He did not say that all those opposed to the President were federalists, or belonged to the anti-war party. He merely said that they were "in favor of rechartering the United States Bank, and, consequently, in favor of restoring the deposites." The gentleman does not seem to be well versed in the political history of the country, (said Mr. P..) or else his object was to misrepresent him intentionally. By federalists of '98 he meant those who supported the measures of the elder Adams, under whose administration the alien and sedition laws were passed, and opposed the doctrines of Jefferson, as set forth in the celebrated Virginia and Kentucky resolutions. Some of our most respectable, high-minded, and honorable citizens are of this class of politicians. To say that a man is a political disciple of John Adams is not speaking of him reproachfully. A purer patriot never lived. He entertained opinions different from Mr. Jefferson, but the American people have done equal honor to the memory of both. By the anti-war party he meant those who opposed the declaration of war with Great Britain on the grounds of expediency, but did not withhold their services after war was declared. Such he understood, from a late authentic history of the Hartford convention, to be the avowed opinions of its members. He did not mean those who thought it "unbecoming a moral and religious people to rejoice at their country's victories." They were unworthy of the appellation. He would brand them with a more odious name. In illustration of what he meant, he would remark that the chancellor of the State, one of the individuals composing the meeting, was a State-rights politician of the Jeffersonian school, but he belonged to the "bank party." His colleague, he said, seemed not to understand what was meant by the working-men of Mississippi, and intimated that he wished to make an invidious distinction between those who labor for a livelihood, and those who did not labor. Since he affected to be so ignorant of the political history of his own State, he would inform him who he meant by the "working-men of Mississippi." He did not mean those who labored with their own hands exclusive-

ly, as contradistinguished from those who do not labor; nor did he mean the poor exclusively, as contradistinguished from those in more opulent circumstances. A man, he said, might be a working-man in principle, and advocate the doctrines of the party, without being a mechanic or laborer; he might be a lawyer, a physician, a merchant, or a planter. He meant, he said, those who advocated such doctrines as were calculated to promote "the greatest good of the greatest number," and who were, consequently, opposed to monopolies of all kinds which were beneficial to the rich alone, and injurious to the great body of the people who compose the laboring portion of the community. As he intended to enter more at large into the principles advocated by the working-men of the country at another time, he would not on that occasion, he said, trouble the House with particulars. He would, however, he said, for the benefit of his colleague, identify the working-men of Mississippi, so that he would know them, thereafter, by that name. They compose (said Mr. P.) that portion of the community who, in 1817, opposed a certain party in their efforts to incorporate into our State constitution a clause taking into the ratio of representation the slave as well as the white population, which would have taken the political influence out of the hands of the great mass of the people, that compose the laboring portion of the community, and thrown it into the power of the lordly aristocratic slave-holders, many of whom have as little regard for the rights of the people as for their own negroes. They compose that portion of the community who, with a few choice spirits at their head, have been struggling for equal rights and equal privileges from that time onward, and who succeeded in 1832 in gaining a triumphant victory over the aristocracy of the State, by expunging from the constitution those anti-republican and odious features contained in that instrument: depriving a poor man from any participation in the affairs of Government; authorizing the judges and other public functionaries to hold their offices during life; and taking from the hands of the people the appointment of their officers; and who succeeded in incorporating into that sacred instrument, in lieu thereof, the ever-memorable provisions, dispensing with all property qualifications for eligibility to office, and the right of suffrage; limiting the tenure of office to a short specific period of time, and reserving to the people themselves the inherent right of electing all their public functionaries from the highest executive and judicial officers down to the justices of the peace and constables. They compose that portion of the great mass of the people who aided in elevating our present Chief Magistrate to the chair of state, and were proud of the appellation of the "Jackson party," so long as Jacksonism continued to have a definite and specified meaning. But when they discovered that their leaders had, in their blind devotion to men, lost sight of the great principles by which they professed to be governed, and were about to hoodwink and shackle them with the fetters of a party contending for the succession of the presidency, they resolved to burst asunder the chains of their faithless leaders and adhere to their original principles. So long as Jacksonism meant the State-right doctrines of the Jeffersonian school, they boasted of their name; but when it began to mean tariff and anti-tariff, bank and anti-bank, State-rights and consolidation, any thing, every thing, and nothing, they thought it was time to withdraw, change their title, and set up for themselves. Although they agree with the State-right division of the party in principle, they thought it inexpedient to follow them to the brink of dissolution, nor could they be induced, as much as they are devoted to the President, to violate the constitution by following the Jackson division of the party into the other extreme of consolidation.

During the South Carolina excitements, they steered clear of Scylla and Charybdis. They do not (said Mr. P.) believe in human perfection nor in the infallibility of man. They are willing to view with a charitable eye this one error of the President in his construction of the powers of the General Government. Whatever errors (said Mr. P.) he may, in their opinion, have committed, have been sufficiently atoned for in his struggle to relieve them from the iron grasp of a moneyed tyrant, about to enslave a free people, whose ancestors bared their breast and spilled their blood to be relieved from a much less dangerous power. They are not the supporters of any administration, right or wrong, without regard to principle. They would oppose any administration in favor of granting exclusive privileges to companies, or of exempting companies from liabilities to which individuals are subject, and particularly to banks, the most pernicious of all corporations, inasmuch as they, by virtue of their exclusive privileges, have the entire control of the credit and currency of the country. They compose that portion of the population of Mississippi who stand opposed to the aristocracy, whether composed of birth, of wealth, of office, of learning, or of talents, which exists in this and every other country, and can only be kept from trampling on the rights of the people "by the strong arm of the law." They have at different periods been known by the name of whigs, democrats, republicans, Jackson men, and more recently and familiarly by the name of the people's party. When they opposed the encroachments of the dangerous powers of the General Government upon the rights of the States, they were identified with and called nullifiers. Now, when they oppose a much more dangerous power, a moneyed monopoly, repugnant to the fundamental principles of our Government, they are accused of being under the influence of "party trammels" and "decided party discipline," and branded with the epithet of "collar men." All the opprobrious epithets which could be invented would not, he said, drive him from the path of his duty, nor would the newspaper slang of the opposition, although it should be endorsed and repeated by an honorable gentleman, professing to sustain the administration, have the effect of making him abandon his principles. The democracy of the country must expect these things, they must calculate on being called by nicknames by way of ridicule. Such has been the case ever since the organization of the Government. The object is to drive all those who are so timid as to be afraid of hard names into the ranks of the opposition. The idea of being under the "malign influence of the kitchen cabinet is too horrible to be borne!" Mr. P. said his colleague complained that he should be "exposed before the House and the nation." Mr. P. regretted, as much as any one, the necessity of making the exposure. He deeply deplored it, but it would be remembered that his colleague was the aggressor. He (Mr. P.) had only acted in self-defence, and had even neglected to do that, until driven to the wall. If his honorable colleague, he said, "had none of that ridiculous pride which some persons manifested in respect to what comes from him," he ought to have sense enough not to expose his ridiculous pride to the world, by publishing speeches never delivered. Mr. P. said that these were the substance of the remarks he intended to make, when first called to order by the Chair, on Monday, the 12th instant. What he should have said, when called to order the last time, if he had been permitted, owing to circumstances that had since transpired, he deemed unnecessary at that time to mention.

REMARKS OF MR. CLAY, OF ALABAMA,

On the bill granting pre-emption rights to actual settlers, and in reply to Mr. Vinton, of Ohio.

Mr. CLAY rose and said:

He did not intend, at this late period of the session,

when so much important business pressed upon the consideration of the House, to go into an elaborate argument of the principles or policy of the measure; and he expressed the hope that no other friend of the bill would do so. He said he should confine himself to a brief notice of the views and objections presented by the gentleman from Ohio, [Mr. VINTON,] and the exhibition of such facts as were immediately connected with the provisions of the bill, and as would, in his opinion, demonstrate the justice, propriety, and policy of the measure.

Mr. C. said the friends of the bill, if not the House generally, had some reason to complain of the course pursued by the gentleman from Ohio. That gentleman had caused to be read to the House a letter, or report, from the late Commissioner of the General Land Office (Mr. Graham) to the President, and also a letter from another individual, purporting to have been written from Alabama. Both these communications bore date, he said, more than four years ago, and, as would be well recollected by some gentlemen who were then members of the House, as well as himself, were read, and relied on by the gentleman from Ohio, and others opposed to the passage of this same act of 29th May, 1830, now proposed to be revived and extended.

As regarded the letter of Mr. Graham, the late commissioner, Mr. C. said it appeared on its face to relate to a bill of a character essentially, indeed, almost wholly different from the one under consideration. Some of the strongest objections urged in this letter against the bill applied to it as it originally passed the Senate; and which were subsequently removed or obviated by amendments which were made in the House. This, he said, would conclusively appear by stating the prominent objections of the commissioner, and calling the attention of the House to the law sought to be revived. For example, Mr. Graham's letter urges that the passage of the measure, in the shape it was when he wrote, would suspend or postpone the sale of public lands during the time it was to be in operation; yet the law, as it passed, expressly provides, in section 4, "That this act shall not delay the sale of any of the public lands of the United States beyond the time which has been or may be appointed for that purpose by the President's proclamation." Thus, it is left completely in the power of the President to limit the period of this privilege to as short a time as he may think proper. If he choose to order a sale of any portion of the public land which is settled or occupied, within the meaning of the clause which has been recited, three months hence, the settler or occupant must avail himself of his privilege before the day appointed for the commencement of the sale, or it is lost; and so it would be if he should order a sale in one month. The party entitled to a right of pre-emption cannot delay the sale of the land he occupies a moment--the law imposes no restraint whatever on the power of the President to fix the time of sale, as he could have done before its passage.

Again: Mr. Graham apprehended that the bill to which he referred, if passed, would again introduce the credit system; yet the law does no such thing. On the contrary, the succeeding clause, in the same section from which he had already quoted, was in these words: "Nor shall any one of the provisions of this act be available to any person or persons who shall fail to make the proof and payment required before the day appointed for the commencement of the sales of land, including the tract or tracts on which the right of pre-emption is claimed." Here, it is evident that, instead of re-establishing the credit system, the payment, as well as the proof required, must be made before the day of sale appointed by the President, or all the provisions of the act are expressly made unavailable to the claimant.

The letter from Alabama, which had been read, also had full consideration on the discussion of the measure which this bill was intended to revive. It was then read, and it would be recollected by one of his then colleagues, [Mr. LEWIS,] who was still a member of the House, and in Mr. C.'s eye, that one of the representatives of Alabama, not now a member, [Col. Baylor,] had informed the House, on his personal knowledge, that the author of this letter was a land speculator, and one of the very class of persons against whose operations the bill was intended to guard and protect settlers and occupants. He thought his honorable colleague [Mr. LEWIS] had also spoken in like terms, on his knowledge of this letter writer. Hence, Mr. C. said, the House would be prepared to give the proper weight to this document now, as they did then. Mr. C. said he would submit to the House whether there was not some degree of unfairness, to say the least, on the part of the gentleman from Ohio, under all these circumstances, to introduce, and cause to be read, those two stale documents, as proper, and calculated to influence the vote about to be given. The letter from the late commisioner, more especially, obviously related to a measure embracing very different provisions from that contemplated by the bill under consideration; and the letter from Alabama had reference to the inhabitants of four or five townships, no longer in market, whose conduct (if as indiscreet as it had been represented) ought by no means to prejudice the claims of all settlers on the public lands. Mr. C. remarked that it would not do, on principles of justice and fairness, to say, because a few individuals (probably not amounting to fifty) might threaten to maintain their possession of a small portion of the public land by strong arm, that all settlers, indiscriminately, should be deprived of the privileges due to their enterprise and industry.

Mr. C. remarked, the gentleman from Ohio had said the act of 29th May, 1830, had passed late in the session, and, as well as he recollected, about midnight. In this the gentleman was entirely mistaken. It was true, Mr. C. said, that the bill was taken up on the question of ordering it to a third reading some time in the evening, a few days before the close of the session, and the discussion was continued till a late hour of the night, when it was ordered to be engrossed, and read a third time. But, on the following morning, when the bill came up on its third reading, the opposition of that gentleman and others was renewed, with as much zeal as had been before evinced; and, notwithstanding all the resistance it had to encounter, it was passed, not far from mid-day, by a most gratifying and triumphant majority. It underwent a full discussion, and did not owe its passage either to the lateness of the period of the session, or to the favor of the midnight hour. The success of the principle of this bill, Mr. C. said, did not require darkness or haste. The light of truth, as it might be elicited by the most thorough investigation, was all that was necessary to ensure its approbation by most intelligent men.

The gentleman from Ohio had said that, if this bill passed, it would be unnecessary to pass another bill, which was before the House, directing the sale of the lead mine lands; and was understood to intimate that the right of pre-emption would be extended to settlers on those lands by the provisions of the present bill. In this opinion, Mr. C. said, the gentleman was certainly mistaken. The lands embracing the lead mines were, by law, expressly reserved from sale; and, until that law was repealed, they could neither be sold at public or private sale. There is, moreover, a positive restriction in the act, which this bill is intended to revive, in the following words: "Nor shall the right of pre-emption, contemplated by this act, extend to any land which is reserved from sale by act of Congress, or by order of the President, or which may have been appropriated for any purpose whatever." Gentlemen may therefore dismiss all apprehensions on that score.

But, Mr. C. said, of all the arguments which had been used against the passage of the bill, the most extraordi

nary was, that it would favor speculation. Sir, said Mr. C., can a bill which limits the purchase of any one individual to a quarter section, or one hundred and sixty acres, and which requires such individual to have cultivated last year, and to be now in possession, be said to favor or encourage speculation. If, however, any doubt could be entertained otherwise, it must be entirely removed by recurring to a provision of the third section of the act, which expressly declares "that all assignments and transfers of the right of pre-emption given by this act, prior to the issuance of patents, shall be null and void." This restriction of the right of sale and the limitation of purchase to so small a quantity as one quarter section must be regarded as a sufficient guarantee against speculation. Indeed, Mr. C. said, the very object of the bill was to protect the cultivators of the soil, a large proportion of whom were poor men, from speculators and men of large capital; and, if the bill passed, such would be its effect.

The gentleman from Ohio had spoken of the rich cotton lands of the South, and had represented them as being worth ten, twelve, and fifteen dollars per acre! But, Mr. C. inquired, when did those lands realize to the Government any such prices? He would answer, not for years past. He said he was prepared to present to the House such facts as would at once put to flight all such extravagant and visionary calculations. Mr. C. said he had before him an official statement which he had obtained from the General Land Office, showing the quantity of land sold at the different land offices of the United States during the year 1833, exhibiting the aggregate number of acres sold, and the aggregate number of dollars received, except the December returns from two land offices, which had not then been received. This statement, he said, showed the entire quantity sold last year was 3,740,153 34-100 acres, producing the gross sum of $4,786,714 10, and making the average price $1 27 and a fraction of a cent per acre. Thus it will be perceived that the Government only received an average of two cents and a fraction per acre above the minimum price. From this paltry excess is to be deducted the additional compensation paid to registers and receivers, for conducting sales at auction, and the compensation paid to auctioneers, &c. &c. How much would be the nett gain of Government by these sales at auction, for there was no pre-emption law operating during the last year? Mr. C. thought the gain, in dollars and cents, if any, would hardly be worth the trouble of the calculation. He thought it would not be a sufficient inducement to endanger the security, the comfort, the interest, and the happiness of the large body of meritorious citizens who were settled on the public lands, by subjecting them to the hazard and uncertainty of a sale at auction. If, on any principle, the Government could be justified in making the public domain a subject of speculation and profit, by jeopardizing the welfare of the occupant, which he did not believe; Mr. C. said he thought the gain was obviously too trifling to warrant such a policy. He said it should be borne in mind, too, that much of this land was the rich cotton land of the South, of which the gentleman from Ohio had spoken; there having been, as we all know, very extensive sales of the Choctaw lands in Mississippi during the last year.

Mr. C. said he had been asked whether sales were not more productive before the passage of the law granting pre-emption rights to settlers on the public lands than since. He was glad to be able to say that prices were no better for some years before the passage of the act of 1830. He said he had a document before him which emanated from the late Commissioner of the General Land Office, under date 6th February, 1830, exhibiting the quantity of land sold in several of the States during the years 1826, 1827, and 1828, and the average price per acre. Of all the land sold in Indiana during those years, the average price was only $1 25 and 1 mill per acre. Of that sold in Illinois, during the same period, the average price per acre was only $1 25 and 6 mills. Of the whole quantity sold in Missouri, during the same period, the average price per acre was only $1 26 and 5 mills; making the general average of the sales in those three States, for the three years, $1 25 and 6 mills per acre. This may be taken as a pretty fair specimen of prices, under the auction system, for some years preceding the enactment of our late pre-emption laws. They have been, perhaps, occasionally some higher; but the highest average in a single State, during the same years, was $1 39 3-10 per acre on the richest land, in the finest cotton region of Alabama; and that has not probably been equalled during any other three years' sales, in that State, for the last ten.

Mr. C. said the various laws allowing the right of pre-emption, passed in the years 1830 and 1831, had also given new impulse to the sale of the public land. From the year 1820 to the year 1828, both inclusive, the largest quantity sold in any one year was less than a million of acres—and the average quantity per annum, sold during those nine years, was only 769,150 91-100. The sales of 1830, (during only about half of which sales were made under the pre-emption law,) the quantity was doubled, and brought into the treasury more than $3,000,000, when the annual receipts from this source had before been less than a million and a half. The sales of 1831 were still increased, and brought into the treasury about $1,200,000. The sales of 1832 were about the same, as well as he now recollected; and it has been already shown that, during the last year, the sales amounted to $4,786,614 10.

Sir, said Mr. C., more land will always be sold under laws granting to the settler the right of pre-emption, than when it is sold at auction. Give to the man of small property the assurance that, if he will raise a $100, he can secure a half quarter section; or, if he will raise $200, he can secure the quarter section, including the home of his choice, and he will do so at almost any sacrifice. He will sell sell his plough-horse, or any other property he may have, to accomplish that first and most important object, when he would not be justified in making such sacrifices and exertions (nor would he do so) if he had to encounter the uncertainty and danger of being overbid at auction by the speculator and capitalist.

Mr. C. said, with the facts before us, sustained by documentary evidence, the question is, simply and emphatically, will you sell the public land in limited quantities to the hardy enterprising pioneer, the laboring man, who has opened his little farm, and built his cabin by the sweat of his brow, at the same price you would receive from the speculator, who would buy it up in large quantities, and then extort from the settler a profit of fifty or a hundred per cent.? Will you not foster and rear up communities of independent freemen—making every citizen a freeholder—when you can do so without any sacrifice, even of money, rather than depress, discourage, and impoverish a most useful, numerous, and meritorious class of citizens, and thereby render a few individuals engaged in this most exceptionable branch of speculation inordinately wealthy? Mr. C. said he could but believe that every honorable member who had attended to this explanation would, by his vote, respond to these questions in favor of the passage of the bill, and of that policy which, while it promoted equality, by improving the condition of worthy and enterprising citizens, most generally of small capital, would accelerate the settlement and sale of our most extensive public domain.

SPEECH OF MR. WATMOUGH.

House of Representatives, *June* 23, 1834.

To my constituents of the county of Philadelphia, and to my fellow-citizens of the adjoining county of Montgomery.

Fellow-citizens: The memorials which gave rise to the

following observations were conveyed to Washington by a highly respectable committee appointed by the citizens of Montgomery county.

By this committee, in compliance with a vote passed by the memorialists, they were intrusted to my charge to lay them before the House. It is now more than a month since I have made repeated efforts to effect this object: the rules of the House, the extraordinary press of business, and the near approach to the close of the session, have as repeatedly interfered, and denied me the power. As I consider the subject-matter involved of deep and vital importance, not only to the memorialists, but likewise to the whole body of the people of Pennsylvania, I avail myself of the only means left, and respectfully submit to my fellow-citizens the remarks I proposed to make in the House, as I have written them out from my notes.

JOHN G. WATMOUGH.

The memorials from Montgomery county being under consideration—

Mr. WATMOUGH said that many weeks had elapsed since he had been honored by a portion of his fellow-citizens of the county of Montgomery, and State of Pennsylvania, among whom he had long resided, by being chosen as their intermediary to convey to the House of Representatives their opinions as to the consequences of the removal of the public deposites from the Bank of the United States, as they affect the interests and welfare of the whole body of the people, and the particular facts of the case, as they prove how deeply and injuriously their own happiness and prosperity have been assailed.

Conscious, Mr Speaker, of my inability to perform the the duty assigned me by my former neighbors and friends in a manner commensurate with its importance or their expectations, still I feel it imperative upon me to make the effort; and I beg the House to be assured that in the fulfilment of this, an obligation I owe my constituents and my country as well as my former neighbors and friends, I shall endeavor not to be unmindful of my duty towards them. I shall use all possible brevity, and confine myself as closely as I can to the subject-matter of the memorials themselves.

The county of Montgomery, from whence these memorials proceed, lies immediately adjacent to the county of Philadelphia, and is as essentially a manufacturing as it is a beautiful agricultural district. The Great Limestone valley, which intersects so large a portion of Eastern Pennsylvania, and is distinguished for the remarkable fertility of its soil, and the general intelligence and integrity of its inhabitants, heads within its limits.

The Schuylkill river, long celebrated for the romantic beauty of its scenery, and now better known as one of the great highways of Pennsylvania prosperity and improvement, intersects a large portion of its territory.

From hence arise the two main sources of the wealth and prosperity of its inhabitants—limestone, marble, and lime, on the one hand, and a vast extent of the most invaluable water power, affording every facility to any amount of manufacturing capital, on the other.

The industry and enterprise of the inhabitants of this favored district have for many years past turned these inexhaustible sources of wealth to the best account. The memorialists state that the annual product of their quarries has, for many years past, exceeded, in marble of the finest quality, 120,000 feet, and in limestone, upwards of 100,000 tons, while they have annually burnt, in their own kilns, not less than 300,000 bushels of lime. For all this material they have ever found a ready demand, at a fair market price, in the city of Philadelphia. But, sir, the case is now entirely reversed. A few short months, and all their bright prospects have become blasted. The mildew of bad Government, or rather of a wicked administration of public affairs, has fallen upon them. Sales can no longer be made; contracts are no longer entered into; business is completely paralyzed; many of those extensively engaged in business have long since discharged their hands; agricultural products have experienced a depression of thirty per cent. in value, and the season of activity and hope has been converted into one of despondency and indolence. Such, sir, is the language, or nearly so, of these memorials.

Will any one pretend to doubt these facts? No one will be so bold. The good faith of nearly fifteen hundred freemen, whose names are appended to them, is pledged for their entire truth. The State of Pennsylvania does not contain a more respectable body of men. With many of them I have myself been long intimately acquainted. I know well their patriotism, their high moral worth, their general intelligence of character. They are entirely incapable of being made subservient to party purposes. Besides, sir, I find within this roll a very respectable proportion of the names of individuals, who but a short time since ranked themselves among the warmest political adherents of the President of the United States. But, sir, they have had their eyes opened, and the mist that veiled them has been dispelled. In the spirit of persecution with which the President has acted towards the Bank of the United States, and those so honestly and firmly engaged in the administration of her affairs for the public good, they can see nothing to extenuate.

In the high-handed and illegal assumptions of executive power they have become alarmed, and in the abuse of power confided to him by the constitution in the last resort, for occasions which it was scarcely anticipated could arise, they behold a deliberate purpose to dispense with all the co-ordinate branches of the Government, and to concentrate within himself all that the most refined spirit of selfishness, if not tyranny, can devise. And finally, sir, in the overbearing and heartless arrogance with which the President had refused to receive, much less to listen to, the complaints and sufferings of his fellow-citizens from all parts of the Union, they behold a principle of action altogether at war with the spirit of our institutions, and derogatory to the claims and character of a free people.

They have, therefore, forgotten their predilections for the man, and have assumed the attitude of men determined to defend the constitution and the laws; and with this view they now make their appeal to the representatives of that sovereign power of which they feel they constitute a part, and they invoke you to redeem the spirit of the one, and shield from insult the violated majesty of the other.

Thus, then, sir, I maintain no question can be raised as to the truth of the facts herein set forth. If no other voice had been heard in the country, the attestation of the freemen of Montgomery county would be entirely sufficient to substantiate the truth of all advanced. But, sir, how does this matter stand? One common voice has been heard from Maine to Louisiana, and from the remote West to the Atlantic, reprobating the course which the President of the United States has thought fit to persevere in, and clearly proving the universal prevalence of the same deranged state of affairs which these memorialists set forth. Petitions signed by more than one hundred thousand of your countrymen, constituting a large proportion of all the active and industrious classes of society, load your table.

Delegates composed of men of the most unquestionable standing, and appointed to lay before you the complaints and sufferings of each particular class in the community, have appeared at your bar, and claimed to be heard; these complaints and sufferings have been so often repeated that they now fall upon your ear like a tale thrice told. They are nevertheless true, sir—solemnly, sadly true; and although repulsed by party organization here, and utterly disregarded in the pride of power else-

where, they have been received, sir, and acted upon by one branch of the Government in the fair spirit of justice, temperance, and truth; and happy, most happy, Mr. Speaker, has it been for the peace of our country, that at least in one quarter they were so received. Happy, sir, that the people, torn by anxiety, and excited by insult, have some assurance that these cardinal and vital principles of freedom are not totally banished from our land. Sir, I will not even picture to myself the consequences which must eventually have ensued, had the spirit of pride and obstinacy, and the spirit of party, which have characterized two branches of our Government, taken possession of the third. Then, sir, no hope would have been left, and that degree of patient forbearance which will ever characterize a free people, conscious of holding in their own hands a constitutional remedy against all the evils of party corruptions and bad government, once abandoned, civil commotion must have ensued; and blood once shed, farewell to liberty, and to all the hopes of the advocates of civil liberty for ever! Humbly and fervently do I thank Providence that a crisis so awful has been averted. The revolution now in progress is purely one of opinion. It is extending itself daily throughout every district in the Union; and when the period shall at length arrive to consummate it, I have no doubt it will prove as glorious as it will be entirely salutary in all its results.

Strange, sir, it certainly is, that our free and happy country should be in a state of revolution. Strange that the spirit of repentance for so much mischief wantonly inflicted should not have fallen upon the heart from whence it all proceeds. I forbear, however, to press this matter further: the subject, sir, is quite exhausted: a discussion of unexampled length has completely developed every point at issue, and every principle involved. The weak and insufficient reasons of the Secretary of the Treasury, although sustained by all the adventitious aid which party organization and party discipline have been able to devise, lie prostrate at the bar of public opinion. And it is left for history to record with pain, that although demolished here by the accumulated force of reason, fact, and argument, they still stand emblazoned upon your journals as sufficient to sustain a majority of this House in opposition to the interests at least, if not to the wishes of a large majority of the nation.

In the mean while, the great object of all this violence, the Bank of the United States, although laboring under the accumulated load of executive persecution and popular prejudice, pursues the even tenor of her way, fulfilling, even under all the injustice of vested rights violated, and public faith broken, the great public benefits which it was the especial object of her charter to secure.

Her high-minded and honorable direction, reviled, abused, and calumniated, continue firm at their posts, regulating with the nicest intelligence the vast and complex machine intrusted to their charge; guarding with the most honorable fidelity that great public interest which is found to be so intimately associated with the interests of individuals, as with the general welfare of the whole country, and relying upon a brave and magnanimous people ultimately to sustain them in their course, and relieve their fair fame from the gross imputations so foully attempted to be placed upon them.

Such, then, Mr. Speaker, is at present in general the condition of our affairs, and certainly it is one deeply to be deplored.

Where all ought to be harmony and peace, all is contention and discord.

The evidence is abundant to sustain the fact of a general derangement in the monetary system of the country, and a consequent disorganization in the affairs of all engaged in the commercial, manufacturing, and mechanic interests. That this derangement has been slow to affect the interest of the farmer to the measure and extent that it must and inevitably will, is to be imputed to well-known and peculiar causes.

Our country is of vast extent, and its population comparatively sparse, with means of information by no means adequate. The farmer lives within himself; his resources are confined within a narrow sphere; and perfectly happy and secure in the enjoyment of all his means, the idea of any infringement of his rights, or of destruction of his property, arising from any act of an administration of his own choice, will be among the last to suggest itself to his mind.

The operation is, nevertheless, sure and certain, in the end, to produce its proper effect. The harmony and sympathy existing between all parts of the social compact are such, that no great and impending calamity falls upon one portion of it, without causing the whole to vibrate. The merchant, the manufacturer, the mechanic, the honest son of labor, cannot be prostrated in their several interests, without reacting upon him whose toil fertilizes the earth, and feeds and sustains the whole. And, indeed, we find that this reaction has at length taken place. The memorials before me clearly indicate the fact. It is likewise confirmed from another source, of even higher authority; it is well known by the members of this House, and by the nation, that there has lately been held in the State of Pennsylvania a convention, composed of individuals from almost every county in the State, and of the very highest respectability in point of character and intelligence. The proceedings of this convention were brought to Washington by a committee of thirty, and by them were handed to my friend and colleague, [Mr. Denny,] to be laid before this House; it has been a matter of sincere regret to myself, to my honorable friend, and to a majority of the delegation, that no opportunity has been afforded to lay these proceedings before the House; they have been cut off by the same causes which have so long operated upon myself. The members of this convention speak a language not to be misunderstood. Coming, as most of them have, immediately from the people, they tell you what are the condition and the feelings of the people, and the personal sacrifices encountered by the farmers, their neighbors and friends; I quote largely from their memorial. They state, in the first place, that

"They have yielded to the commands of their friends and neighbors without regret for any personal sacrifices, and they have met together to confer upon the grievances which are endured, and to devise, if possible, the means of alleviating them. Your honorable bodies are not now to learn the distressed condition of any portion of the country. It is long since we have seen recorded in your journals the receipt of petitions from more than a hundred thousand citizens, all uniting in one mournful, but unquestionable story of suspended wages, lost credit, increasing wants, and diminished means to supply them; which have left their deep, and, perhaps, indelible impression in every portion of a heretofore prosperous and smiling land. These communications, springing as they have done from various quarters, and dictated by no concert or co-operation except that which flows spontaneously from a common state of calamity, your memorialsits have now the painful opportunity fully to confirm. They have brought together the disastrous tidings which have been collected in each distinct section of the Commonwealth; they have opened to each other freely their swelling hearts, and they have sought in vain for one mitigating circumstance, in possession or in prospect—for one exaggerated representation or distorted fact in the numerous exhibitions of deep-felt suffering which have been made to Congress, and they have found only aggravation in the conviction that the suffering has been altogether unnecessary and unmerited."

And again:

"The staples of the Commonwealth are without a market. Many of its once flourishing mines are in a great degree abandoned, and their miners are generally dispersed. Iron and cotton are no longer manufactured to the extent of more than two-thirds of their former produce. Lumber, if it sells at all, sells at greatly diminished prices. Four out of five of the furnaces of an extensive glass-house at Kensington are extinguished, and the fifth is kept in blast chiefly that the numerous apprentices may continue to enjoy the means of instruction and beneficial exercise. If flour retains its price, it is owing to the additional calamity of its scarcity, in consequence of which the supply has been reduced in proportion to the demand. Turn where we will, your memorialists perceive one universal sense of present or impending ruin, depressing the energies and darkening the prospects of the citizen."

And again:

"Under a solemn sense, however, of the responsibility which we owe to our constituents, and to your honorable bodies, we do not hesitate to confirm the imputation which has been so often communicated to Congress. Until a series of measures on the part of the Executive of the Union, hostile to the best interests of Pennsylvania, were consummated by the last fatal blow aimed at the Bank of the United States, in the removal of the deposites to the custody of other institutions, all was prosperous, and marked with plenty. The energies of our Commonwealth, and, as we believe, of the whole nation, became palsied from that hour. Your memorialists must, therefore, ascribe the sufferings to which they have adverted to that ill-advised measure, consequent as it was upon or connected with a system of hostility pursued towards the national bank. The measure would probably have been sufficiently disastrous of itself; but when it bore every appearance of being united with a stern and unrelenting disposition to break down the barriers of the constitution, it was fraught with ruin to the brightest hopes of the nation."

And again:

"Could your memorialists discover, for the act complained of, one feeble pretence in reason or in law, they would summon to their assistance the best consolations of patriotism, and patiently abide by the redress which the elective power may afford; but when they are referred to no authority, and are informed of no danger to justify or excuse the act; when they are told that their constituents are to be involved in ruin; that the constitution of their country is to be invaded; that the best hopes of a happy people are to be blasted for the sake of an experiment; and when that experiment has done its office, and has proved itself to be altogether disastrous, they cannot, because they feel they ought not to delay to throw themselves upon Congress for ample and immediate relief. Should it be delayed one single hour, distress will be greatly aggravated. Should Congress rise without specific measures to carry the balm of consolation to the hearts of your desponding countrymen, the extent of the calamity it would be impossible to foretell."

And again:

"Your memorialists are well assured that a single act of Congress, calculated to give renewed confidence in our institutions, and to ensure to them respect and obedience hereafter, would at once arrest the progress of distress, and restore happiness to the people. The violation of the constitution, like the sudden blast of death, filled the whole nation with dismay. The application by Congress of the remedy, which is completely within their power, will dispel, with magic influence, the shades which now envelop the country. Your memorialists confidently believe that the restoration of the deposites to their only proper depository, or an unequivocal act disapproving of their removal, or an act rechartering the Bank of the United States, or any act which shall effectually restrain the Executive from carrying on hostilities against the policy of Congress and the peace and welfare of the country, would afford relief; the want of which is so sorely felt, and the possession of which is so anxiously required. And they respectfully pray that one or all of such acts may be passed."

And, sir, these gentlemen have had substantial ground for all they assert. I have lately taken the trouble to calculate some of the losses sustained by the State, in consequence of the present deranged condition of affairs. They are as follows:

The loss to the State by the difference of premium on the loan of $729,354 44, originally taken by S. & M. Allen, at a premium of $13 51, and afterwards by Mr. Moss, at a premium of one-quarter of one per cent., is - - - - -	$96,712 39
The loss to the State by the loan of $600,000, recently taken by Mr. Chauncey, amounts, when contrasted with the premium of 1833, to - - - - - -	65,580 00
And supposing the balance of the State loan of 1834 will be taken at the same premium, the State will lose, in the same manner, a sum equal to - - - -	182,028 22
	$344,320 61

Thus it is seen that, in disposing of her loans, Pennsylvania has lost, or is likely to lose, upwards of $300,000, and this loss falls especially upon the great body of her people.

So far, therefore, Mr. Speaker, as human testimony can prove any thing, the source from whence all our present evils spring is clearly indicated; strange, then, that the remedy should not be forthwith applied.

It is certainly most unfortunate that, although there exists even in this House a decided majority opposed to the views and policy of the administration, still, for well-known causes, that majority cannot be brought to act upon the question, to apply the remedy which it is agreed on all hands would at once relieve the country. In the South, the constitutional objection to a national bank forbids all hope. In the West, the discipline and rule of "the party" form even a greater obstacle; while New York, who may be said to hold the balance, and has ranged every point of the political compass, has at length found it expedient to ingraft the constitutional doctrine upon her stock, in the hope thereby to perpetuate her "system," and secure her future preponderancy in the administration of public affairs. And certainly, Mr. Speaker, amid all the strange events of these most eventful times, this may be deemed not among the least remarkable. The Bank of the United States unconstitutional! say the honorable gentlemen from New York in both Houses of Congress. "Perish credit, perish commerce," exclaims, with all the holy fervor of a new convert, another distinguished individual from the same quarter. And yet, Mr. Speaker, it may not prove entirely uninstructive to look back a little into the history of this matter. When a member of the bank investigating committee of 1832, two documents of no small interest fell under my observation. I hold these documents now in my hand. I will not take up the time of the House by reading them throughout; I will merely state their purport; and, as I consider them as precious instances of political consistency, I shall append them entire to my written remarks, as precedents that may hereafter prove of much use to the good people of New York, if not to the honorable gentlemen themselves, whose names are annexed to them.—(See end of speech.)

The one, purporting to be "the memorial of the subscribers, in behalf of themselves and their fellow-citizens

in Albany, to the directors of the Bank of the United States, respectfully showeth," &c. This memorial is signed by upwards of sixty names, of the highest respectability. Among them I distinguish the honorable Charles E. Dudley, late United States Senator; B. F. Butler, I presume the present Attorney General; Nathan Sandford; W. L. Marcy, the present distinguished Governor of the State; and, though last, certainly not least, Martin Van Buren, now Vice President of the United States.

This memorial is dated July 10, 1826. The other paper to which I allude is dated September 1, 1826, and is addressed "to the honorable the president and directors of the Bank of the United States," by "the undersigned inhabitants of the town of Utica, in the State of New York," &c.; and this memorial is signed by upwards of twenty gentlemen, many of whom I have often heard of. One among the number I must be allowed to notice more particularly, simply because the honorable gentleman had forgotten the existence of this paper, and, no later than this session, in a contest with one of his colleagues, had denied all knowledge of it; I allude to the honorable gentleman from New York on my left, [Mr. Beardsley.] Now, sir, here I find this honorable gentleman's name appended to and sustaining a sensibly-written argument on the subject of the bank; I find not, however, a word about the monster, and all that sort of thing, nor a syllable on the unconstitutionality of this institution. No, sir; in 1826 these resorts were not expedient; they are the growth of a later day. Neither do I remark any reference whatever to those topics upon which I have since heard the gentleman descant so eloquently—nothing, sir, about fee'd advocates, nor bribery, nor corruption. Sir, I do not think any honorable gentleman on this floor has indulged in more bitterness of expression, more party zeal, or uttered broader insinuations against the purity of motive of some of the most upright men of this nation who have felt it to be their duty to sustain the Bank of the the United States, than the gentleman from New York. I have been altogether surprised at his course, and the more so, as he himself must have felt the injustice of this sort of thing. Unless I am very greatly misinformed, even so late as 1832 the honorable gentleman acted as counsel for the bank, was honestly paid for professional services rendered to the bank, and, by his own argument, is subject to all and every imputation he has thought proper to throw out against others. Sir, I should despise myself if I were capable of imputing any thing derogatory to him in consequence of this his late connexion with the bank; I will not descend to that kind of political warfare; and I only bring the matter up now, to show my constituents to what lengths party spirit and an intemperate zeal may carry honorable gentlemen on this floor.

I pass over, however, all these minor matters, and have only to say that these two memorials, as the House will perceive by a reference to them, strenuously urge the conflicting claims of the two rival cities of Albany and Utica to the establishment of a branch in one or the other of them. As all the world knows, Utica carried the day against the confederated strength of the Albany regency; and the dreadful "monster," worse than ten Spanish inquisitions, with all its conglomerated ills of bribery and corruption, was located, by the zealous efforts of the honorable gentleman on my left, [Mr. Beardsley,] in the very midst of the unsophisticated and uncontaminated citizens of his district.

So much, then, Mr. Speaker, for the constitutional scruples and political consistency of the State of New York. It would be idle to dwell longer on this subject; it would be worse than idle for me to undertake at this day to argue the constitutionality or unconstitutionality of the bank. In Pennsylvania, sir, this question never is, never has been, nor do I think it ever will be, raised. We are a plain people, sir, and meddle but little with abstractions of any sort. Firmly attached to the Union under which we have been raised, devoted to that written constitution which has hitherto been the sheet anchor of our hopes and our prosperity, we are loath to derange its action or affect its influence by arguments against its validity, or by arguments which, if they prove any thing whatever, only demonstrate that, in handing down to us a written constitution, our fathers have left to their descendants an eternal source of legislative disputation, or an instrument upon which to sharpen the legal wit of the nation.

We have therefore deemed those measures and principles constitutional, which, under a sound and careful practice, have redounded to the honor of the nation at large, and enhanced the prosperity and general welfare of her citizens individually.

It is thus that Pennsylvania has always deemed the Bank of the United States constitutional. It is thus that she has sanctioned, by her legislative action at home, her voice, and the unanimous vote of her representatives in Congress, the vital principles of a protective policy and of internal improvement. Nor will I ever believe, Mr. Speaker, that, distinguished as my native State has always been for the cardinal virtues of firmness and integrity of purpose, she will ever be brought to submit herself to those corrupt and degrading influences which a certain set of politicians are endeavoring to fasten upon her; they may succeed in bribing the political profligates, the men of principle in proportion to their interest, by the hope and promise of reward. I think, however, it is certain, sir, that no native born Pennsylvanian will be found base enough to palter with or betray the integrity of his constituents or the interests of his State, or consent to make himself a by-word of contempt and abhorrence even among those very individuals who are willing for a time to make use of him to suit their own purposes.

I am sure, sir, none such will be found; and if my voice could be heard through all the villages and valleys, and on the hilltops of Pennsylvania, I would caution my countrymen against the spirit of the times; I would warn them to look well to the opinions and purposes of those to whom they have intrusted power and place; I would invoke them to examine for themselves; and when they behold one principle after another sacrificed and abandoned, one institution after another decried and torn down, let them pause and reflect, and ask themselves, to what end is all this? for whose benefit? Are the institutions, the freest and happiest in the world, to be perpetuated by such means? Is the great vital principle of the constitution, that of representation, to be preserved and cherished by means which tend to bring ridicule, if not contempt, upon the representative body itself? Can the constitution be handed down uncorrupted and untarnished, after every means are resorted to to deprive it of all its vital functions and vigor? Surely not, Mr. Speaker. The good sense of the people of Pennsylvania repudiates any such doctrine; they can see no end to the evils which must spring from it; and if they have no experience to guide them as to the fatal consequences of the other acts and principles of the President, they at least know what must be the inevitable results of his policy towards the bank. They have not so soon forgotten the melancholy epoch which intervened between the expiration of the charter of the old Bank of the United States and that period at which the present one, chartered in 1816, came into healthful operation. Her farmers cannot have forgotten those melancholy days, when sheriffs' sales filled every gazette; when, in some cases, almost whole counties changed hands; when thousands of upright, honest, and laborious men, were compelled to abandon their respectable homesteads, and commence anew all the toils and anxieties of life. Such, sir, were the results produced by the political movements of that day against the

Bank of the United States; such was at that time the consummation of the memorials and petitions which poured in from all quarters, and which the chairman of the Committee of Ways and Means has lately thought proper to speak of with contempt, and to treat as the fictions of federalists and bank advocates. But, notwithstanding the efforts of the administration on this floor, notwithstanding the clamor raised by demagogues every where, notwithstanding the very sudden and remarkable change of opinion among some of her own representatives, Pennsylvania will still prefer to keep her eye upon those great fathers of her principles and her policy to whom she has been so long accustomed to look up—I mean upon Madison, Gallatin, and Crawford.

What is the language of these highly-distinguished and consistent republicans? Let us examine, and place it in contrast with what is now given. And first, as to Mr. Gallatin: on the 30th January, 1811, Mr. Crawford, then a member of the United States Senate, applied officially to Mr. Gallatin, at that time Secretary of the Treasury, "for his views as to the practicability of employing the State banks as places of deposite for the public moneys, and as means suited to regulate the currency of the country.

Mr. Gallatin replies to the following effect; and I venture to say that no candid man will read his reply, without deeming the question entirely put at rest. I desire, particularly, to bring this letter to public view, because, in a debate on the bank deposite bill, the chairman of the Committee of Ways and Means turned this letter to his own account, and quoted one single paragraph "as evidence of the very highest character" in favor of his State bank deposite bill.

I submit this letter, entire, to my countrymen, and rely confidently upon their good sense to come to a just conclusion; and I am willing to give the honorable gentleman from Tennessee the whole benefit of his extract. They will find, too, that no doubt rested, even at that day, on the mind of Mr. Gallatin, as to the constitutionality of the bank.—(See end of speech.)

I recommend it to their careful perusal. And here, Mr. Speaker, I might rest this whole question, even on the authority of the gentleman from Tennessee, [Mr. POLK.] But, sir, the further you go in quest of authority, the stronger the case becomes. What says Mr. Madison? the virtuous, the enlightened Madison; almost the last survivor of that immortal civic band by whose labors our constitution was framed. It will be recollected that, in 1814, a majority of the two Houses of Congress sanctioned the chartering of a Bank of the United States—a measure forced upon them by the extreme state of depression under which the country labored, in consequence of the total derangement of its currency, and the State bank deposite system. Mr. Madison, acting under a conscientious conviction that this charter would not effect the object proposed, modestly returned the bill to Congress with his objections. In April, 1816, however, he affixed his name to the charter of the existing bank, and in June, 1831, in reply to a letter addressed to him on the subject of the bank, he wrote the letter which I now hold in my hand, and which I shall annex, at full length, to my written remarks. (See end of speech.) In this letter Mr. Madison for ever settles the constitutional question. He reasons like a philosopher, a statesman, and a man of sense; and I do most fervently hope that my countrymen will read and deliberate upon the views contained in this invaluable document, and remember that it will ever be ranked among the best of those precious relics left us by the sages of 1776.

But, sir, I stop not here. I have still one authority left, scarcely less conclusive than those I have already given. Mr. Crawford, a statesman of undoubted talents and the deepest experience, meets the question directly in front, and says that—

"I am persuaded that no man, whatever his preconceived opinions may be, can preside over the Treasury one year, without being deeply impressed with the expediency of the Bank of the United States in conducting the finances of the Union. The provision in the constitution which gives Congress the power to pass all laws which may be necessary and proper to carry into effect the enumerated powers, gives Congress the right to pass the bank bill. * * * * * I was Secretary of the Treasury more than eight years, and during that time I had ample evidence of the great utility of the Bank of the United States in managing the fiscal concerns of the Union."

And now, Mr. Speaker, let me ask, ought or can any thing more conclusive be required on the question? I think not, sir; and I heartily trust that, at least so far as my own native State is concerned, the high and elevated authorities I have just quoted will prove a sufficient barrier against the attempts and designs of self-interested demagogues.

And here, Mr. Speaker, I take my leave of this part of the subject; I feel it, however, to be my solemn duty to advance one step further into the general question. It is but too evident, from movements which have lately manifested themselves on this floor, that, in despite of all the petitions and remonstrances of the people, the infamous "experiment" is to be forced onward. We have lately seen a chairman of a most distinguished committee rise in his place, and in a speech of two hours, intended purely for political effect, seek to force through a bill which, I venture to assert, is in direct opposition to the views and interests of the people, against all previous and all judicial authority, and which, if passed, will inflict a mortal wound both upon the constitution and the laws. We have likewise seen another bill of vast importance, as it relates to the currency and the general welfare, hastily forced through the House, without debate, without being reported upon, or receiving the action of any of the committees of the House, and recommended purely as a party measure.

No doubt, therefore, can exist upon the mind of any man that the Bank of the United States is to be put down, cost what it may, and that the State banks, against all previous experience, and in the very face of the still existing balance of 1,600,000 dollars of "unavailable funds," are to be permanently substituted as places of deposite for the public moneys.

Under these circumstances, I consider it to be my bounden duty to state the case fairly to my constituents and my country. I shall, therefore, proceed now to show the nature of the security which they at present possess for the vast amount of accruing revenue, and, in juxtaposition, the actual condition and resources of the Bank of the United States.

It may well be supposed, sir, that the bank at "head quarters," the military chest, as the Bank of the Metropolis may be not inaptly styled, will be guarded with extreme care, and ought, of course, to present the best statement. Let us see, then, how this matter stands; and here, sir, let me premise that I have been led to make this examination from seeing what I suppose was an official statement, made in the Globe on or about the 1st of May last; it will enable the people to judge what reliance is hereafter to be placed on any statement coming from that quarter.

To my mind, sir, the results are startling in the extreme; and as I have not been able to come to a more satisfactory conclusion in looking over the accounts of any of the selected banks, I confess myself overwhelmed by the most dismal forebodings of the future.

By the "statement" of the "Official," the following appears to have been the condition of this Bank of the Metropolis on the 1st day of January, 1834, to wit:

Capital,	$500,000 00
Circulation,	160,283 00
Due to banks,	146,531 11
Due to United States,	370,687 75
Due to depositors,	286,645 68
Dividends,	10,917 15
Surplus,	29,055 67
	$1,504,120 36

Discounts,	$755,476 78
Various stocks,	216,822 92
Real estate,	25,131 90
Due from banks,	270,435 86
Notes of banks,	26,728 00
Specie,	209,524 90
	$1,504,120 36

Debts,	$975,064 69
Funds,	748,643 58
	$226,421 11

Now, sir, I take this, their own statement, and I proceed to show you the real condition of this bank.

The demands against it, then, are as follows, viz:

Notes in circulation,	$160,283 00
Due to other banks,	146,531 11
Due to United States,	370,687 75
Due to depositors,	286,645 68
Due for dividends,	19,917 15
	$984,064 69

To meet these demands, its only available means are as follows, viz:

Specie,	$209,524 90	
Due from other banks,	270,435 86	
Notes of other banks,	26,728 00	
		$506,688 76
Leaving a deficiency of means to meet demands, of		$477,375 93

This, certainly, is no very flattering picture; but let us proceed. By the last report, lately made to the Senate, it will be seen that the condition of this bank, on the 5th of May, had somewhat varied. By a comparison of these two statements, made at an interval of only four months, the country will be enabled to form a correct judgment of the effect of the "experiment," and of the capability of those State banks to afford those facilities to the commerce and industry of the country, so essential to their due encouragement, and her general prosperity. During the short interval above mentioned, the discounts of this bank have been reduced six thousand dollars, and its circulation contracted sixty thousand dollars; and, by looking closely into all the facts as they present themselves, it is manifest that the public funds are locked up to sustain the credit of particular banks, and the people deprived of all the benefits they have hitherto enjoyed from their free and liberal circulation. One, therefore, of the main objects of a good banking system, that of keeping capital in circulation in lieu of being centralized, is entirely destroyed. But to make this plain, on the 5th day of May the bank stood as follows, viz:

Capital,	$500,000
Circulation,	95,136
Due to Treasurer United States,	662,676
Due to do. special deposites,	20,625
Due to banks,	58,836
Due to individuals,	95,140
Due to public officers,	151,719
Discount account,	19,083
	$1,603,215

Bills and notes discounted,	$749,600
Discounts on stocks,	203,576
Real estate,	25,113
Notes of other banks,	27,229
Checks of other banks,	197,644
Specie,	134,635
Due from other banks,	261,246
Expense account,	4,152
	$1,603,215

From this statement, the fractions of dollars thrown off, it appears the demands amount to	$1,084,132
And the available funds to meet the same, to only	620,774
Leaving a deficiency of	$463,358

The item of "stocks of various kinds," noticed in the January statement, is now converted into "discounts on stocks." How this is effected I cannot undertake to say; or whether the amount of this fund is likely to be rendered more available in its present form, I leave for those better instructed than myself to determine.

The statement of the "Official" inserts among the available means:

The real estate of the bank, at	$25,131 90
And the stocks, which amount to	216,822 92

Now, sir, it must be borne in mind that the value of real estate in the District has depreciated beyond all former example; and any one will be convinced, on the most casual examination, that this large item of "stocks" cannot and ought not to be ranked with the available means of the bank. It is made up, as appears by the report of the Secretary of the Treasury, of

Corporation stock of the City of Washington, to the amount of	$10,000 00
Canal stock, to the amount of	1,922 92
And of stock of the Bank of the Metropolis, which cost the said bank $181,541 45, but is charged	204,900 00
Making up the amount, above stated, of	$216,822 92

Now, sir, I think it will scarcely be pretended that any amount of money could be raised on these items, in the present deranged state of the currency, and under the pressure existing, particularly in this District. I think I hazard but little in saying that ten thousand dollars could not be realized in money from the whole of them. And now, to say nothing of the very questionable character of this last transaction, that of a bank dealing in its own stock at a depreciated value, and under circumstances which will not, perhaps, bear the light of day, there can be no doubt that the difference between the cost of the stock and its par value forms a part of the surplus of $29,055 67.

Now, sir, I believe that the highest price offered for a small amount of this stock put up for sale at public auction, was only 83 per centum, and, at another attempt to sell at public sale, there was no bid at all. It is, therefore, not improbable but that this gain will prove to be a loss.

It is fairly to be presumed, too, that a part of the balances set down as due from banks, embraces the sums re-

cently loaned to the banks which have suspended specie payments; if this be the case, to that extent, at least for the present, these balances are not available.

Thus, then, it is seen that, so far from being able to meet all its engagements, by a curtailment of 30 per centum in three equal calls, at sixty, one hundred and twenty, and one hundred and eighty days, it will require 63 per centum on $755,476, the amount of discounts, to enable the bank to meet its just demands; and when or where so large a sum can be raised to meet these demands, is a question of fearful import, not only to the directors of this institution, but, allow me to add, to this House, as well as to those who have assumed the responsibility of confiding the money of the people to such places of deposite.

But, sir, I have seen it stated that the Bank of the United States has made repeated "runs," as they are technically called, upon the Bank of the Metropolis, with the view to destroy it by abstracting all its specie: I believe this is not true. I have sought the necessary information, and understand that there has been but a single demand made for specie by the United States Bank on that bank, and that for fifty thousand dollars only, while the state of the balances between the two institutions would have authorized a demand of not less than half a million: nor could this have been imputed to the Bank of the United States as an act of injustice, or as one she would not have been sanctioned in adopting, under the existing state of warfare waged against her; for I venture to assert that the deposite bank holds not a dollar of coin in her vaults that has not been directly or indirectly withdrawn from the Bank of the United States, or some one of her branches; the illegality and unconstitutionality of which have been so clearly demonstrated. Sir, the course pursued by the United States Bank, in this instance, is precisely that adopted by her in her relations with all the State banks—an entire elevation above all personal animosities, and a regard solely to the credit of the country at large, and the convenience of all the great interests of the nation.

"This will be seen, more distinctly, in the following comparison of the business and deposites of the three places where the present pressure is mainly ascribed to the reductions of the bank; that is, at Philadelphia, New York, and Boston. At those places

	The loans were	*Domestic bills.*	*Public deposites.*
Oct. 2,	$12,509,778 15	$6,317,700 28	$6,871,626 64
Dec. 2,	11,639,130 47	4,037,642 70	2,830,864 81
Reduct's,	$870,647 68	$2,280,057 58	$4,040,761 83

making the actual reduction of loans only $870,647 68, on a reduction of Government deposites, of $4,040,761 83.

"And taking the bills into consideration, the whole reduction of loans and bills will be only $3,150,705 26, for a reduction of deposites of $4,040,761 83; and all this at a moment when secret drafts to the amount of $2,300,000 were hanging over the bank.

"It will be seen how little reason there is to complain of the reductions of the bank. In fact, the bank, so far from endeavoring to oppress the State banks, has treated them with the greatest liberality. Thus:

The debt from the State banks on the 2d of October, was - - -	$4,719,972 80
On the 2d December, - - -	4,083,260 15
A diminution of only - - -	$636,712 65

while the bank reduced its own business upwards of five millions."

There is yet, however, one other view in which this matter strikes me as being of deep moment. It will be remembered that this Bank of the Metropolis holds at present an amount equal to 814,395 dollars of the public moneys. Now, I think I have clearly shown that her whole probable available means do not exceed 620,774 dollars.

There can be no doubt that, under the existing circumstances of the country, the whole amount of the public funds will be immediately required. In this event, the result is inevitable—a deficiency to meet the Treasurer's drafts, of 192,621 dollars. And what now becomes of the holders of the notes and of the claims of individuals? They must rely upon collections to be made from the discounted debt, and from the sale of the stock of their own bank. I think I have clearly shown that these are not to be relied on; but it must be further recollected that the United States has a preference over individuals; and as it is highly probable all the public moneys will be required in the course of the year for the current expenses of the Government, the other creditors of this bank must look to it in due season; otherwise, they will be left to get their pay as best they can.

Under all these circumstances, then, what claim has this or any of the deposite banks upon the forbearance of the United States Bank? Surely none. And the more so, as further forbearance on her part can only tend to jeopardize the interests of her own stockholders, and finally deprive her of so much additional means to enable her, when the great crisis shall at length arrive, which is destined to convulse the whole community, if not shake the very foundations of our Union itself, to remain firm and unmoved at her moorings.

That she will be enabled to do this, I firmly believe, and will now proceed to make manifest. (See end of speech.)

The analysis I am about to make is one embarrassed by no difficulties. It presents itself in a form intelligible to the plainest understanding. It is purely a matter of official statement. It involves the vast concerns of a great and thriving nation. It develops the secret springs of all the great interests of society. It plainly exposes the nerves and fibres of all those springs, and shows what exquisite skill is necessary in the employment of them, and what exquisite skill has been brought to bear upon their past operation.

I mean not, sir, to repeat all or any of the arguments which, in the course of this painful session, have been uttered with so much eloquence and effect upon this floor against the acts and the policy of the President of the United States. I leave them to operate their full effects upon the minds of the people; and I call upon them maturely and deliberately to weigh the consequences which have already sprung from those acts, and the effect which is likely to be produced upon their own welfare, and the future prosperity of their children, by the new relations towards them and the constitution which the President has thought proper to assume. Sir, let it not be supposed that the people of these United States will permit themselves any longer to be deceived. Political means, to ensure political results, involving great principles of national policy, they will sanction; but when it shall once become manifest to their minds that political means are only used to smooth the way to broad, and uncontrolled, and unconstitutional power; that the hue and cry of political demagogues is to be raised against every principle, and every institution of the country, and every co-ordinate branch of the Government that opposes the inroad, or does not lend itself to the advance of power, then, sir, my life on it, they will shake off the infatuation which has hitherto palsied their energies, and in the bold and energetic language of the iron-crowned monarch of ancient Lombardy, exclaim, "*Gare à qui la touche.*" Sir, they will not be satisfied with the means proposed and now offered to them by the majority of this House to silence their cries, and evade their petitions for redress; they will reject the bill offered by

the honorable chairman of the Committee of Ways and Means. They are not yet reduced to that condition of vassalage and imbecility which this bill presupposes. What, sir, legalize the unconstitutional acts of the President by a remedy proposed by himself? Leave the constitution to wither, become a dead letter, and the law to be prostrate at the foot of the executive throne, while they rivet with their own hands the chains he has attempted to throw around them? No, sir, never. If the great means by which the currency has been hitherto regulated and controlled is to be abolished, and an old and condemned political expedient substituted in their place, let it be done at least under the sanction of the law, and with all the forms prescribed by the constitution. The constitution and the laws must be redeemed. The President must purge his own heart and his councils of that obdurate arrogance which refuses to confess a wrong, and, laying aside his personal animosities, and his military notions, submit himself to public opinion, and in his executive action confine himself modestly within the limits prescribed by the constitution and the laws; then, sir, all the evils of which we complain will be at once remedied: and if the people so decide, the great object of his unrelenting vengeance will expire by her own limitation, and it will become the duty of Congress to provide other means to promote the general welfare.

But, Mr. Speaker, it is assumed that the bank is the cause of all the distress and want of confidence, and general derangement into which the country has been thrown. Sir, that this is not true, is susceptible of mathematical demonstration. I proceed to the proof.

No one has denied the existence of the most unparalleled state of prosperity with which the year 1833 opened. The people were buoyant with hope, and the year promised a most abundant harvest. On the first day of October the President of the United States issued his mandate, without previous notice, or any of the previous arrangements which the importance of the measure, and a common feeling of benevolence to his countrymen, ought to have dictated: the public deposites were at once withdrawn from the place which the law had appointed for them.

What then, sir, was the situation of the Bank of the United States?

That there may be no mistake in this matter, I ask the attention of the House to the following statement. I pledge myself for its entire authenticity, and only desire that it may be carefully perused. It contains the amount of loans, of public deposites, and of private deposites, on the day the deposites were withdrawn, and on each succeeding month, up to the 1st of June instant. It presents, likewise, a concise view of the circulation of the bank, the amount of specie in her vaults, and the amount of debts and notes of State banks due, for the same period of time. They will be found to be as follows:

		Loans.	Pub. depos.	Priv. depos.
Oct.	1	$60,094,202 93	$9,868,435 58	$8,008,862 78
Nov.	1	57,210,604 38	8,232,311 18	7,285,041 88
Dec.	1	54,453,104 67	5,162,260 63	6,827,173 10
Jan.	1	54,911,461 70	4,230,509 63	6,734,866 06
Feb.	1	54,842,973 64	3,066,561 72	6,715,312 60
March	1	56,167,829 86	2,604,233 62	7,343,129 92
April	1	54,806,817 62	2,932,866 74	7,166,028 21
May	1	53,756,485 18	3,251,345 64	7,022,820 10
June	1	52,201,912 88	2,731,988 51	6,867,892 15

		Circulation.	Specie.	Debts and notes of of State banks.
Oct.	1	$19,128,189 57	$10,663,441 51	$4,719,972 00
Nov.	1	18,518,000 57	10,342,160 46	4,489,217 00
Dec.	1	18,650,912 90	9,818,529 25	4,083,258 00
Jan.	1	19,208,379 90	10,031;237 72	3,519,385 00
Feb.	1	19,260,472 90	10,523,385 69	3,211,385 00
March	1	18,523,189 00	10,385,439 15	2,035,985 00
April	1	17,521,264 39	10,180,008 76	2,195,489 00
May	1	16,604,147 90	11,183,774 54	3,094,787 00
June	1	16,612,527 06	12,298,333 20	3,329,362 00

Now, sir, let us test the conduct of the bank during this period of severe trial, and see whether she has forgotten her duty to the public, and given herself up to a wanton spirit of retaliation, or whether she has not regulated herself by an extreme prudence, and kept her action always within the line forced upon her by the Executive. Since the removal of the deposites,

The reduction of loans has been		$7,892,290 05
While the reduction of deposites has been		8,277,417 70
Being more than the reduction of loans by		385,127 65
The reduction of the notes in circulation is		2,515,662 51
The increase of the specie,		1,634,891 69
The specie is now	$12,298,333 20	
The notes and debts of other banks,	3,329,362 00	
		15,627,695 20
While the notes in circulation amount to		16,612,527 06

Here, Mr. Speaker, you have presented to your view a more remarkable instance of skill, sound management, and solvency, in an institution, than perhaps have ever before been manifested. During the whole period which this statement contemplates, the bank was the object of the most unrelenting persecution. The combined force of presidential patronage, of executive venom, and of every corrupt press in the country, was brought to bear upon her; to break her was a matter of life and death with her persecutors; no matter what amount of ruin ensued, no matter to what degree public confidence was prostrated, or the national currency deranged, the *prestige* of military firmness, of glory, of victory, must not be lost. "Carthage was to be destroyed;" and the unholy assault upon the general welfare and prosperity of the people was persevered in. The bank has remained untouched. The whirlwind has swept by her, and, while she has been enabled, from her position, to extend the hand of relief whenever and wherever it has been claimed, without regard to party distinctions, she has defied the storm. The immediate claims against her were the deposites and her circulation. The means immediately to be relied upon to meet these claims, are the specie and the debts from banks.

I now ask attention to the following statement. It shows the condition of the bank in these particulars when the first bold effort was made to destroy her, and the shout of anticipated victory bellowed from a hundred throats; and at the present time, when the confederated powers, baffled and completely foiled, have turned their efforts to details, and hope, by means of their gold and silver coin bills, and their State bank deposite bill, to effect that which violence failed to consummate.

October 1. The deposites were	$17,877,298 36
The circulation,	19,128,189 57
Total,	$37,005,487 93
At the same time, the specie was	10,653,441 51
The debts from banks,	4,719,972 00
Total,	$15,383,413 51
On the 1st June, the deposites are	9,599,880 66
The circulation,	16,612,527 06
Total,	$26,212,407 72
While the specie is	12,298,333 20
And the debts from banks,	3,329,362 00
Total,	$15,627,695 20

Thus:

	Total demands.		*Total means on hand.*
Oct. 1,	$37,005,487 93		$15,383,413 51
June 1,	26,212,407 72		15,627,695 20
Reduction,	$10,793,080 21	Increase,	$244,281 69

Certainly, sir, we have before us a fine comment upon the wisdom of our rulers, and the sagacity of our minister of finance! In the midst of the general hurrah, the bank has quietly pursued the even tenor of her way, and has actually paid off nearly eleven millions of her liabilities, finding herself at this moment with more funds in her possession than when she sat out.

Such, Mr. Speaker, is the general result of this war of persecution against the Bank of the United States. Calm, temperate, and just, her board of directors have anticipated every blow aimed at the interests of the country, and have protected the institution over which they preside from the violence which has fallen with an iron hand upon the people.

The following table fully develops the general condition of the bank on the 1st day of June instant. It presents an argument in itself worth all that could be said or written, and ought to convince the people of the benefits which might be derived from an institution so regulated, and so solvent, under circumstances of general harmony and prosperity, when it presents such results under circumstances of so widely different a character.

On the 1st day of June, 1834, the bank owed to depositors, public and private,	$9,599,880 66
Owed to holders of its notes,	16,612,527 06
	26,212,407 72
Unclaimed dividends on its own stock,	73,180 98
Total,	$26,285,588 70

This is every dollar which any man has a right to claim from the bank.

Now, to pay them, the bank has—

Specie in its vaults,		$12,298,333 00
Notes of State banks,	$1,707,286	
Balances from State banks,	1,662,076	
		3,329,362 00
Funds in Europe, - - -		1,995,290 00
Real estate, - - - -		2,904,762 00
Loans, - - - - -		52,289,053 00
Due by the United States, - -		72,816,801 00
		164,110 00
Total,		$72,980,911 00

Here, then, is a mass of property of more than seventy-two millions bound for the safe-keeping of the public funds, and the performance of the duties of commissoiners of loans and pension agents.

Compare this security, Mr. Speaker, with that offered by these deposite banks, and surely we may wonder how the wicked policy under which the country now groans can be permitted to continue.

I must be allowed to notice one other matter. It is certain that there have been large importations of specie into the country during the late winter and spring; and I have heard it triumphantly announced on this floor as one of the happy consequences of the President's measures.

The gentlemen who used this language, if they knew no better, are grossly deceived. The whole amount supposed to have reached our shores has been estimated at about six millions; it has not probably been so much. This specie comes either direct from England and France, or more generally from Mexico to New Orleans, and thence to New York and Philadelphia.

Since the 1st day of October, 1833, the Bank of the United States has introduced into the ports of Philadelphia and New York—

From Europe, direct, - - -	$1,000,000
From the South, - - - -	2,500,000
Making a total of - -	$3,500,000

The bank has imported this large amount of specie with a view to place her own solvency beyond all manner of doubt, and to enable her the better to sustain that crisis which must inevitably result from the measures of the Government. This importation has had the effect desired, and public confidence has increased towards that institution.

But what becomes of the two million five hundred thousand dollars over and above that imported by the bank? What effect has it had upon the business of the country? To what degree has it restored, either generally or partially, that confidence among the merchants and traders so essential to their welfare and that of the country at large, and which has of late been so utterly annihilated? To what amount has it tended to increase the circulation of values, or to afford facilities in the making of payments? None whatever, sir. The business of the country is at a stand; the whole year has been thrown away; confidence still holds aloof, and the means of employment are infinitely diminished; nor do I believe, Mr. Speaker, that four times the amount would produce any effect whatever on the general concerns of the nation, until the proper remedies are applied by Congress itself. Of this, sir, I have but little hope; and although there may be a redeeming spirit in the country and her institutions sufficient to carry her safely through the calamities ahead, yet, sir, I, for one, can never consent to prove the vigor of our constitution at the expense of so much individual distress.

Before I conclude, I must be allowed to notice one more subject.

Among the many clamors raised against the bank, it has been attempted to arouse public indignation against her for the republishing of valuable public documents and speeches of members of Congress. I cannot believe, sir, that, when this matter is temperately viewed, the people will disapprove of it. What possible injury has it or can it effect? Do these documents contain any thing prejudicial to the interests of the people, or adverse to the institutions of our country, or to the soundest republican doctrine? No, sir; no one will dare to say they do. They contain the best collection of facts, and the soundest political views; and, without exception, they breathe the purest and most elevated principles of liberty.

Sir, we are now at the close of a long and most painful session of Congress. On the part of the friends of the administration, every argument has been used, and every effort employed, to sustain the administration in all its policy, and especially the President in all his views and assumptions. These arguments have been distributed in large quantities, and public opinion has decidedly reprobated most of them. Still, sir, they continue to be disseminated among "the party," and every true liegeman is bound to receieve them as his rule of faith. Now, sir, wherein consists the sin of the bank? She has spread the antidote wherever the poison has reached; she has thrown light where it was sought to perpetuate darkness, and the people have felt the influence of that light. They have become acquainted with the great principles of our constitution and of civil liberty, and have been taught the danger likely to result from the unconstitutional and alarming doctrines of "presidential protests." They have acted accordingly, and the sin is visited upon the bank: with what justice, I feel confident I can rely upon the people to say.

I intended, Mr. Speaker, to have said much more on

this subject. I desired to have laid before the country the views and principles which have governed the administration of the bank, as they are developed in the report of the 1st of April. I find, however, I cannot do it better than it is already done by that report itself. I therefore append it to my remarks, and ask for it a candid consideration. (See Appendix to speech.)

With this, Mr. Speaker, I close. I believe, solemnly and conscientiously believe, that in this great contest are involved every right dear to freemen, and every interest connected with the happiness and welfare of the people. I have opposed the encroachments of executive power, because in them I see the ruin of my country, and the corruption of all sound, moral, and political sentiment. I have been startled at the influence of executive patronage, and have seen the most unquestionable principle of national policy abandoned at its bidding. I warn my countrymen to look to it in time.

I have sustained the Bank of the United States as a great conservative principle of national policy; as such, confined by patriotic agents within the sphere of her legitimate duties, she has no influence; she can command none; she is lost, simply because she neither can nor will command any. What, however, cannot the Executive command and effect? Need I warn my countrymen? Let them carefully weigh the events of the last two years. Let them look to the conduct of the majority of this House, in reference to the votes on the sufficiency of the Secretary of the Treasury's reasons. Let them ask themselves why this House has constantly refused to look into the affairs of the Post Office Department; and then let them say to themselves, "Shall we for ever suffer ourselves to be hoodwinked by this cry about the bank, the monster, while every principle dear to us is successively destroyed, and all the institutions of the country given up to the spoiler?"

Sir, they will no longer be deceived. I rely upon their integrity, their patriotism, and their love of order. The country is in danger, the constitution is assailed, the law is trampled under foot, and they will fly to the rescue.

APPENDIX TO MR. WATMOUGH'S SPEECH.

UTICA, *September* 1, 1826.

To the honorable the President and Directors of the Bank of the United States:

GENTLEMEN: The undersigned, inhabitants of the town of Utica, in the State of New York, would respectfully solicit your attention while they lay before your board some of the grounds which present themselves in favor of locating a branch of the United States Bank in this place.

In the first place we would mention, what cannot have escaped your observation, that this town has the advantage of being situated in the centre of the State, in the midst of a fertile country, and surrounded by a great, a growing, and a rich population; and although this people, in the main, are occupied in agriculture, yet there are among them a great many who employ their capital wholly in mercantile and manufacturing operations. The towns and villages in this great western district, and especially on the line of the canal, are thriving and enterprising in a very great degree; and we think we may say, without exaggeration, that Utica by far exceeds them all in the enterprise of their merchants and mechanics, and in the amount of capital employed in business.

Nor can it be overlooked that this country is surrounded by water communications, which extend its commerce and moneyed circulation into the Canadian British dominions, the Michigan Territory, and several of the States bordering upon the great western waters—advantages to a banking institution in extensive credit, which must be seen at a glance by those who understand its various and ramified operations. The deposites and circulation of such an institution must necessarily be great in such a country, with such a population, and such extensive commercial resources.

In addition to this general outline, we beg leave to state that the banking capital employed in this district of country is, by far, inadequate to its wants. We feel a confidence in stating that from two to five hundred thousand dollars more might be employed with profit to the stockholders, and advantage to the country at large. We have, it is true, one bank, and the branch of another more west, in operation here; but their capital is not great, and they have always divided nine per cent., and more than once have divided fifteen per centum per annum.

As we suppose that your honorable board will not enter into the measure of establishing a branch here, or at any other place, without making particular inquiries into every fact and circumstance which may bear upon the subject, we do not at present enter into greater detail. We cannot forbear, however, to press upon your attention the following points: That this place, being the local centre of the State, and from its flourishing condition now, containing about six thousand inhabitants, and from its rapid progress in population and wealth, there is every reason to believe it will be fixed upon, ere long, as the seat of the State Government; that, from its situation and capital, it cannot but continue to draw within its focus the mercantile business of a great surrounding country; that, from these and other circumstances, the circulation of the bills of the United States bank must be very extensive in every quarter, except the East, from this centre; that a branch here may be particularly subservient to the transactions of the General Government on an extensive frontier, and in offering a safe place of deposite for its funds, whether to be employed or collected in this section of the United States.

We hope and trust that this slight view will draw the attention of your honorable board to this place, in selecting a proper position in this State for another branch bank; and we think we may safely refer you for information on this subject to all the enlightened and disisterested bankers and merchants in the State of New York.

Hoping to receive, in convenient time, a favorable answer to this application, we would subscribe ourselves, most respectfully, your obedient servants,

William Williams, James Donell, S. Beardsley, J. S. Porter, Moses Bogg, Kellogg Hurlburt, Alex. Seymour, William Clarke, Robert Shearman, Charles E. Hardy, B. B. Lansing, Joseph Kirkland, N. Williams, John C. Devereux, G. Bacon, Samuel Stocking, Ab. Varick, R. R. Lansing, A. Cooper, T. H. Hubbard, John Williams, Edward Vernon, James Platt.

To the Directors of the Bank of the United States: the memorial of the subscribers, in behalf of themselves and their fellow-citizens in Albany, respectfully showeth:

That, since the completion of the northern and western canals of this State, such facilities are given to transportation that the quantities of country produce brought to this market from the interior of the State are increased to an immense amount, and when to this is added the produce which will be brought to this market from the fertile regions of the northwestern parts of Pennsylvania, the State of Ohio, and the Territory of Michigan, some idea may be formed of the amount of business which might be done in this place, were a sufficient moneyed capital located here to give countenance and support to commercial enterprise. The capital of the banks located here, under State incorporations, is entirely insufficient to afford those facilities to commercial enterprise which

the business of the place would warrant, and which the most cautious prudence would justify. The limited capital of our banks forbids the extension of our trade. Merchants of moderate fortune are discouraged from taking up their abode amongst us, from a knowledge that the banking capital of the place is not adequate to the demands which are made upon it, for the prosecuting of a sufficiently extensive business to render it profitable; and instances are not wanting of active, intelligent, aud enterprising merchants removing from this place to the city of New York, to participate in the benefits of the increased banking capital there, although their business principally has been continued with the interior of this State. The western world is pouring its treasure into the market at Albany; but its citizens are doomed, with tantalized feelings, to behold a rich and profitable trade float past them to the city of New York, solely for the want of a sufficient banking capital located amongst them. Could the produce brought to this place be purchased here, such portion of it as is not wanted for home consumption might be exported directly from here to a foreign market, (as far as the navigation of the Hudson would permit,) and return cargoes, calculated for the inerior of the country, might be imported, without being subjected to the expense of transhipment at New York, or the profits of the importing merchant there. These considerations have induced the citizens of Albany once more to ask for the establishment of a branch or office of discount and deposite of the Bank of the United States in this city.

It is hoped this application will be favorably received, as the same causes which render it desirable to the citizens of Albany to have a branch of the United States Bank established there conclusively show that it would be a source of profit to the present institution. Indeed, it is believed that a branch here would be more profitable, in reference to the extent of business done, than several of the branches located in seaport towns. The local situation of Albany renders it an entrepot between the Eastern States and the Western countries, between the South and the North; and, consequently, a very extensive currency would be given to the bills issued from a branch here; and the nature of the trade which would be prosecuted here would, in a great measure, render the bills of a branch, established at this place, the circulating medium of the extensive regions whose produce would be brought to this market.

Inasmuch, therefore, as the establishment of a branch here would not only be highly advantageous to this city, but be a source of profit to the parent institution, we hope that the directors of the United States Bank will establish an office of discount and deposite in this place.

McMillan & Bagley, William Cook, Jno. J. Godfry, T. W. Rathbone, Charles E. Dudley, M. Van Buren, Wood, & Acres, J. & H. Meacham, Andrew Lightbody, J. Stilwell & Co., F. Backus, Webb & Dummer, J. St. Smith, Corning & Norton, W. & J. G. White, Wm. McHarg, Hickcox & Lagrange, Wilder, Hastings & Co., Spencer Stafford, S. & H. Stafford, G. & S. Bluckey, J. Pruyn, Haroni & Raymond, Daniel Steele, A. & S. Lightbody, Gerrit L. Dox, Samuel Pruyn, Humphrey & Co., Mancuis, & Le Bretord, John L. Wendell, G. McPherson, Wm. C. Miller, Tilly Allen, Lyman Root, Joseph Denison, John Dons, W. S. & E. C. McIntosh, Samuel Steel, James Stevenson, B. F. Butler, J. J. Hamilton, W. L. Marcy, S. De Witt, Isaac Denniston, J. J. Townsend, Elisha Jenkins, Charles R. Webster, James La Grange, K. K. Van Rensselaer, Christian Miller, C. Humphreys, Walter Clark, Alexander Marvin, R. H. King & Co., S. Van Rensselaer, Nathan Sanford, R. M. Meigs, Richard Marvin, C. & E. Egbuts, Chandler Starr, Isaac W. Stools, E. Baldwin, Cor. Van Antwerp.

ALBANY, *July* 10, 1826.

SENATE CHAMBER, *January* 29, 1811.

SIR: The committee of the Senate to whom has been referred the memorial of the president and directors of the Bank of the United States, praying for a renewal of their charter, have directed me to request you to state to the committee, whether, in your opinion, the renewal of the said charter will greatly facilitate the collection of the revenue, and promote the public welfare. In complying with this request, it is expected that you will furnish the committee with the facts and reasoning upon which your opinion has been formed, together with such information upon this subject as may be in your possession.

I am, sir, respectfully,

Your most obedient and very humble servant,

WM. H. CRAWFORD.

The Hon. ALBERT GALLATIN.

TREASURY DEPARTMENT, *January* 30, 1811.

SIR: Having already, in a report to the Senate of the 2d of March, 1809, expressed my opinion in favor of a renewal of the charter of the Bank of the United States, an opinion which remains unchanged, I can only add a few explanatory remarks in answer to the inquiries of the committee, as stated in your letter of yesterday.

The banking system is now firmly established, and, in its ramifications, extends to every part of the United States. Under that system, the assistance of banks appears to me necessary for the punctual collection of the revenue, and for the safe-keeping and transmission of public moneys. That the punctuality of payments is principally due to banks, is a fact generally acknowledged. It is, to a certain degree, enforced by the refusal of credit at the custom-house, so long as a former revenue bond, actually due, remains unpaid. But I think, nevertheless, that, in order to ensure that precision in the collection, on which depends a corresponding discharge of the public engagements, it would, if no use was made of banks, be found necessary to abolish, altogether, the credit now given on the payment of duties—a measure which would affect the commercial capital, and fall heavily on the consumers. That the public moneys are safer by being weekly deposited in banks, instead of accumulating in the hands of collectors, is self-evident. And their transmission, whenever this may be wanted, for the purpose of making payments in other places than those of collection, cannot with any convenience be effected on a large scale, in an extensive country, except through the medium of banks or of persons acting as bankers.

The question, therefore, is, whether a bank, incorporated by the United States, or a number of banks, incorporated by the several States, be most convenient for those purposes.

State banks may be used, and must, in case of a non-renewal of the charter, be used by the Treasury. Preparatory arrangements have already been made to that effect; and it is believed that the ordinary business will be transacted, through their medium, with less convenience, and, in some respects, with perhaps less safety, than at present, but without any insuperable difficulty. The difference with respect to safety results from the organization of the Bank of the United States, by which it is responsible for the money deposited in any of its branches, whilst each of the State banks which may be employed will be responsible only for the sums in its own hands. Thus, the Bank of the United States is now answerable for the moneys collected at New Orleans, and deposited there in its branch—a security which will be lost under a different arrangement. Nor will the United States have any other control over the manner in which the business of the banks may be conducted than what may result from the power of withdrawing the public deposites; and they will lose that which a charter, or a dependence on the General Government for a charter, now gives over the

Bank of the United States. The facility of obtaining such accommodations as may at times be wanted will, for the same reason, be lessened, and the national power will, to that extent, be impaired. It may be added that, even for the ordinary business of receiving and transmitting public moneys, the use of a State bank may be forbidden by the State; and that loans to the United States are, by many of the charters, forbidden, without a special permission from the State.

As it is not perceived, on the other hand, that a single advantage will accrue to the public from the change, no reason presents itself, on the ground of expediency, why an untried system should be substituted for one under which the Treasury business has so long been conducted with perfect security to the United States, and great convenience, not only to the officers, but also to all those who have had payments of a public nature to make or to receive.

It does not seem necessary to advert to the particular objections made against the present charter, as these may easily be obviated by proper alterations. What has been called a national bank, or, in other words, a new Bank of the United States, instead of the existing one, may be obtained by such alterations. The capital may be extended, and more equally distributed; new stockholders may be substituted for the foreigners, as had been suggested in the report of 2d March, 1809; and any other modifications which may be thought expedient may be introduced, without interrupting the operations of the institution now in force, and without disturbing all the commercial concerns of the country.

If, indeed, the Bank of the United States could be removed without affecting either its numerous debtors, the other moneyed institutions, or the circulation of the country, the ordinary fiscal operations of Government would not be materially deranged, and might be carried on by means of another general bank, or of State banks. But the transition will be attended with much individual, and, probably, with no inconsiderable public injury. It is impossible that an institution which circulates thirteen millions of dollars, and to which the merchants owe fourteen, should terminate its operations, particularly in the present unfavorable state of the American commerce, and after the great losses lately experienced abroad, without giving a serious shock to commercial, banking, and national credit. It is not intended to overrate the extent of an evil which there are no certain data to appreciate. And, without expatiating on the fatal and unavoidable effects on individuals; without dwelling on the inconvenience of repaying, at this time, to Europe, a capital of seven millions; and without adverting to other possible dangers of a more general nature, it appears sufficient to state that the same body of men who owe fourteen millions of dollars to the bank, owe, also, ten or twelve to the United States, on which the receipts into the Treasury for this year altogether depend; and that, exclusively of absolute failures, it is improbable that both debts can be punctually paid at the same time. Nor must it be forgotten that the approaching non-importation will considerably lessen the efficiency of the provision by which subsequent credits are refused to importers who have not discharged former revenue bonds. Upon the whole, a perfect conviction is felt that, in the critical situation of the country, new evils ought not to be superadded, and a perilous experiment be attempted, unless required by an imperious necessity.

In these hasty remarks, I have not adverted to the question of constitutionality, which is not a subject of discussion for the Secretary of the Treasury. Permit me, however, for my own sake, simply to state that the bank charter having, for a number of years, been acted upon, or acquiesced in, as if constitutional, by all the constituted authorities of the nation, and thinking myself the use of banks to be at present necessary for the exercise of the legitimate powers of the General Government, the continuation of a Bank of the United States has not, in the view which I have been able to take of the subject, appeared to me to be unconstitutional.

I have the honor to be, respectfully,

Sir, your obedient servant,

ALBERT GALLATIN.

Hon. William H. Crawford,

Chairman in Senate.

Letter from Mr. Madison to C. J. Ingersoll.

Montpelier, *June* 25, 1831.

Dear Sir: I have received your friendly letter of the 18th instant. The few lines which answered your former one of the 21st of January last were written in haste and in bad health; but they expressed, though without the attention in some respects due to the occasion, a dissent from the views of the President as to a Bank of the United States and a substitute for it, to which I cannot but adhere. The objections to the latter have appeared to me to preponderate greatly over the advantages expected from it; and the constitutionality of the former I still regard as sustained by the considerations to which I yielded in giving my assent to the existing bank.

The charge of inconsistency between my objection to the constitutionality of such a bank in 1791, and my assent in 1817, turns on the question how far legislative precedents, expounding the constitution, ought to guide succeeding Legislatures and to overrule individual opinions.

Some obscurity has been thrown over the question by confounding it with the respect due from one Legislature to laws passed by preceding Legislatures. But the two cases are essentially different. A constitution, being derived from a superior authority, is to be expounded and obeyed, not controlled or varied, by the subordinate authority of a Legislature. A law, on the other hand, resting on no higher authority than that possessed by every successive Legislature, its expediency, as well as its meaning, is within the scope of the latter.

The case in question has its true analogy in the obligation arising from judicial expositions of the law or succeeding judges, the constitution being a law to the legislator, as the law is a rule of decision to the judge.

And why are judicial precedents, when formed on due discussion and consideration, and deliberately sanctioned by reviews and repetitions, regarded as of binding influence, or rather of authoritative force, in settling the meaning of a law. It must be answered, first, because it is a reasonable and established axiom, that the good of society requires that the rules of conduct of its members should be certain and known, which would not be the case if any judge, disregarding the decisions of his predecessors, should vary the rule of law according to his individual interpretation of it. *Misera est servitus ubi jus est aut vagum aut incognitum.* Second, because an exposition publicly made, and repeatedly confirmed by the constituted authority, carries with it, by fair inference, the sanction of those who, having made the law through their legislative organ, appear under such circumstances to have determined its meaning through their judiciary organ.

Can it be of less consequence that the meaning of a constitution should be fixed and known than the meaning of a law should be so? Can, indeed, a law be fixed in its meaning and operation, unless the constitution be so? On the contrary, if a particular Legislature, differing in the construction of the constitution from a series of preceding constructions, proceed to act on that difference, they not only introduce uncertainty and instability in the constitution, but in the laws themselves, inasmuch as all laws, preceding the new construction, and inconsistent with it, are not only annulled for the future, but virtually pronounced nullities from the beginning.

APPENDIX

TO THE REGISTER OF DEBATES IN CONGRESS.

TWENTY-THIRD CONGRESS—First Session.

MESSAGE

OF THE PRESIDENT OF THE UNITED STATES TO BOTH HOUSES OF CONGRESS,

At the commencement of the First Session of the Twenty-third Congress.

Fellow-citizens of the Senate and House of Representatives:

On your assembling to perform the high trusts which the people of the United States have confided to you, of legislating for their common welfare, it gives me pleasure to congratulate you upon the happy condition of our beloved country. By the favor of Divine Providence, health is again restored to us: peace reigns within our borders: abundance crowns the labors of our fields: commerce and domestic industry flourish and increase: and individual happiness rewards the private virtue and enterprise of our citizens.

Our condition abroad is no less honorable than it is prosperous at home. Seeking nothing that is not right, and determined to submit to nothing that is wrong, but desiring honest friendships and liberal intercourse with all nations, the United States have gained throughout the world the confidence and respect which are due to a policy so just, and so congenial to the character of the American people, and to the spirit of their institutions.

In bringing to your notice the particular state of our foreign affairs, it affords me high gratification to inform you that they are in a condition which promises the continuance of friendship with all nations.

With Great Britain the interesting question of our North-eastern boundary remains still undecided. A negotiation, however, upon that subject, has been renewed since the close of the last Congress, and a proposition has been submitted to the British Government, with the view of establishing, in conformity with the resolution of the Senate, the line designated by the treaty of 1783. Though no definitive answer has been received, it may be daily looked for, and I entertain a hope that the overture may ultimately lead to a satisfactory adjustment of this important matter.

I have the satisfaction to inform you that a negotiation which, by desire of the House of Representatives, was opened, some years ago, with the British Government, for the erection of light-houses on the Bahamas has been successful. Those works, when completed, together with those which the United States have constructed on the western side of the Gulf of Florida, will contribute essentially to the safety of navigation in that sea. This joint participation in establishments interesting to humanity and beneficial to commerce, is worthy of two enlightened nations, and indicates feelings which cannot fail to have a happy influence upon their political relations. It is gratifying to the friends of both to perceive that the intercourse between the two people is becoming daily more extensive, and that sentiments of mutual good will have grown up, befitting their common origin, justifying the hope that, by wise councils on each side, not only unsettled questions may be satisfactorily terminated, but new causes of misunderstanding prevented.

Notwithstanding that I continue to receive the most amicable assurances from the Government of France, and that in all other respects the most friendly relations exist between the United States and that Government, it is to be regretted that the stipulations of the convention concluded on the 4th of July, 1831, remain, in some important parts, unfulfilled.

By the second article of that convention, it was stipulated that the sum payable to the United States should be paid at Paris, in six annual instalments, into the hands of such person or persons as should be authorized by the Government of the United States to receive it; and by the same article the first instalment was payable on the second day of February, 1833. By the act of Congress of the 13th July, 1832, it was made the duty of the Secretary of the Treasury to cause the several instalments, with the interest thereon, to be received from the French Government, and transferred to the United States, in such manner as he may deem best; and by the same act of Congress, the stipulations on the part of the United States, in the convention, were, in all respects, fulfilled. Not doubting that a treaty thus made and ratified by the two Governments, and faithfully executed by the United States, would be promptly complied with by the other party, and desiring to avoid the risk and expense of intermediate agencies, the Secretary of the Treasury deemed it advisable to receive and transfer the first instalment by means of a draft upon the French minister of Finance. A draft for this purpose was accordingly drawn in favor of the cashier of the Bank of the United States, for the amount accruing to the United States out of the first instalment, and the interest payable with it. This bill was not drawn at Washington until five days after the instalment was payable at Paris, and was accompanied by a special authority from the President, authorizing the cashier, or his assigns, to receive the amount. The mode thus adopted of receiving the instalment, was officially made known to the French Government by the American chargé d'affaires at Paris, pursuant to instructions from the Department of State. The bill, however, though not presented for payment until the 23d day of March, was not paid, and for the reason assigned by the French minister of Finance, that no appropriation had been made by the French Chambers. It is not known to me that, up to that period, any appropriation had been required of the Chambers; and although a communication was subsequently made to the Chambers by direction of the King, recommending that the necessary provision should be made for carrying the convention into effect, it was at an advanced period of the session, and the subject was finally postponed until the next meeting of the Chambers.

Notwithstanding it has been suppose by the French

ministry that the financial stipulations of the treaty cannot be carried into effect without an appropriation by the Chambers, it appears to me to be not only consistent with the character of France, but due to the character of both Governments, as well as to the rights of our citizens, to treat the convention, made and ratified in proper form, as pledging the good faith of the French Government for its execution, and as imposing upon each department an obligation to fulfil it; and I have received assurances through our chargé d'affaires at Paris, and the French minister plenipotentiary at Washington, and more recently through the minister of the United States at Paris, that the delay has not proceeded from any indisposition on the part of the King and his ministers to fulfil the treaty, and that measures will be presented at the next meeting of the Chambers, and with a resonable hope of success, to obtain the necessary appropriation.

It is necessary to state, however, that the documents, except certain lists of vessels captured, condemned, or burnt at sea, proper to facilitate the examination and liquidation of the reclamations comprised in the stipulations of the convention, and which, by the sixth article, France engaged to communicate to the United States by the intermediary of the legation, (though repeatedly applied for by the American chargé d'affaires under instructions from this Government,) have not yet been communicated; and this delay, it is apprehended, will necessarily prevent the completion of the duties assigned to the commissioners within the time at present prescribed by law.

The reasons for delaying to communicate these documents have not been explicitly stated, and this is the more to be regretted as it is not understood that the interposition of the Chambers is in any manner required for the delivery of those papers.

Under these circumstances, in a case so important to the interests of our citizens and to the character of our country, and under disappointments so unexpected, I deemed it my duty, however I might respect the general assurances to which I have adverted, no longer to delay the appointment of a minister plenipotentiary to Paris, but to despatch him in season to communicate the result of his application to the French Government at an early period of your session. I accordingly appointed a distinguished citizen for this purpose, who proceeded on his mission in August last, and was presented to the King, early in the month of October. He is particularly instructed as to all matters connected with the present posture of affairs, and I indulge the hope that, with the representations he is instructed to make, and from the disposition manifested by the King and his ministers in their recent assurances to our minister at Paris, the subject will be early considered and satisfactorily disposed of at the next meeting of the Chambers.

As this subject involves important interests, and has attracted a considerable share of the public attention, I have deemed it proper to make this explicit statement of its actual condition; and should I be disappointed in the hope now entertained, the subject will be again brought to the notice of Congress in such a manner as the occasion may require.

The friendly relations which have always been maintained between the United States and Russia have been further extended and strengthened by the treaty of navigation and commerce concluded on the 6th of December last, and sanctioned by the Senate before the close of its last session. The ratifications having been since exchanged, the liberal provisions of the treaty are now in full force; and, under the encouragement which they have secured, a flourishing and increasing commerce, yielding its benefits to the enterprise of both nations, affords to each the just recompense of wise measures, and adds new motives for that mutual friendship which the two countries have hitherto cherished towards each other.

It affords me peculiar satisfaction to state that the Government of Spain has at length yielded to the justice of the claims which have been so long urged in behalf of our citizens, and has expressed a willingness to provide an indemnification as soon as the proper amount can be agreed upon. Upon this latter point, it is probable that an understanding had taken place between the minister of the United States and the Spanish Government before the decease of the late King of Spain; and, unless that event may have delayed its completion, there is reason to hope that it may be in my power to announce to you, early in your present session, the conclusion of a convention upon terms not less favorable than those entered into for similar objects with other nations. That act of justice would well accord with the character of Spain, and is due to the United States from their ancient friend. It could not fail to strengthen the sentiments of amity and good-will between the two nations which it is so much the wish of the United States to cherish, and so truly the interest of both to maintain.

By the first section of an act of Congress passed on the 13th July, 1832, the tonnage duty on Spanish ships arriving from the ports of Spain was limited to the duty payable on American vessels in the ports of Spain, previous to the 20th October, 1817, being five cents per ton. That act was intended to give effect, on our side, to an arrangement made with the Spanish Government, by which discriminating duties of tonnage were to be abolished in the ports of the United States and Spain on the vessels of the two nations. Pursuant to that arrangement, which was carried into effect, on the part of Spain, on the 20th of May, 1832, by a royal order dated the 29th April, 1832, American vessels in the ports of Spain have paid five cents per ton, which rate of duty is also paid in those ports by Spanish ships; but, as American vessels pay no tonnage duty in the ports of the United States, the duty of five cents payable in our ports by Spanish vessels, under the act above mentioned, is really a discriminating duty, operating to the disadvantage of Spain. Though no complaint has yet been made on the part of Spain, we are not the less bound by the obligations of good faith to remove the discrimination; and I recommend that the act be amended accordingly. As the royal order, above alluded to, includes the ports of the Balearic and Canary islands, as well as those of Spain, it would seem that the provisions of the act of Congress should be equally extensive, and that, for the repayment of such duties as may have been improperly received, an addition should be made to the sum appropriated at the last session of Congress for refunding discriminating duties.

As the arrangement referred to, however, did not embrace the islands of Cuba and Porto Rico, discriminating duties, to the prejudice of American shipping, continue to be levied there. From the extent of the commerce carried on between the United States and those islands, (particularly the former,) this discrimination causes serious injury to one of those great national interests which it has been considered an essential part of our policy to cherish, and has given rise to complaints on the part of our merchants. Under instructions given to our minister at Madrid, earnest representations have been made by him to the Spanish Government upon this subject, and there is reason to expect, from the friendly disposition which is entertained towards this country, that a beneficial change will be produced. The disadvantage, however, to which our shipping is subjected by the operation of these discriminating duties, requires that they be met by suitable countervailing duties during the present session—power being, at the same time, vested in the President to modify or discontinue them as the discriminating duties on American vessels or their cargoes may be modified or discontinued at those islands. Intimations have been given to the Spanish Government that the United

States may be obliged to resort to such measures as are of necessary self-defence, and there is no reason to apprehend that it would be unfavorably received. The proposed proceedings, if adopted, would not be permitted, however, in any degree to induce a relaxation in the efforts of our minister to effect a repeal of this irregularity by friendly negotiation, and it might serve to give force to his representations by showing the dangers to which that valuable trade is exposed by the obstructions and burdens which a system of discriminating and countervailing duties necessarily produces.

The selection and preparation of the Florida archives, for the purpose of being delivered over to the United States, in conformity with the royal order, as mentioned in my last annual message, though in progress, has not yet been completed. This delay has been produced partly by causes which were unavoidable, particularly the prevalence of cholera at Havana; but measures have been taken which it is believed will expedite the delivery of those important records.

Congress were informed, at the opening of the last session, that, "owing, as was alleged, to embarrassments in the finances of Portugal, consequent upon the civil war in which that nation was engaged," payment had been made of only one instalment of the amount which the Portuguese Government had stipulated to pay for indemnifying our citizens for property illegally captured in the blockade of Terceira. Since that time, a postponement for two years, with interest, of the two remaining instalments, was requested by the Portuguese Government; and, as a consideration, it offered to stipulate that rice of the United States should be admitted into Portugal at the same duties as Brazilian rice. Being satisfied that no better arrangement could be made, my consent was given; and a royal order of the King of Portugal was accordingly issued on the 4th of February last for the reduction of the duty on rice of the United States. It would give me great pleasure if, in speaking of that country, in whose prosperity the United States are so much interested, and with whom a long subsisting, extensive, and mutually advantageous commercial intercourse has strengthened the relations of friendship, I could announce to you the restoration of its internal tranquillity.

Subsequently to the commencement of the last session of Congress, the final instalment payable by Denmark, under the convention of the 28th day of March, 1830, was received. The commissioners for examining the claims have since terminated their labors, and their awards have been paid at the Treasury as they have been called for. The justice rendered to our citizens by that Government is thus completed, and a pledge is thereby afforded for the maintenance of that friendly intercourse becoming the relations that the two nations mutually bear to each other.

It is satisfactory to inform you that the Danish Government have recently issued an ordinance by which the commerce with the island of St Croix is placed on a more liberal footing than heretofore. This change cannot fail to prove beneficial to the trade between the United States and that colony; and the advantages likely to flow from it may lead to greater relaxations in the colonial systems of other nations.

The ratifications of the convention with the King of the Two Sicilies have been duly exchanged, and the commissioners appointed for examining the claims under it have entered upon the duties assigned to them by law. The friendship that the interests of the two nations require of them being now established, it may be hoped that each will enjoy the benefits which a liberal commerce should yield to both.

A treaty of amity and commerce between the United States and Belgium was concluded during the last winter, and received the sanction of the Senate; but the exchange of the ratifications has been hitherto delayed, in consequence, in the first instance, of some delay in the reception of the treaty at Brussels, and, subsequently, of the absence of the Belgian minister of Foreign Affairs, at the important conferences in which his Government is engaged at London. That treaty does but imbody those enlarged principles of friendly policy which, it is sincerely hoped, will always regulate the conduct of the two nations, having such strong motives to maintain amicable relations towards each other, and so sincerely desirous to cherish them.

With all the other European powers with whom the United States have formed diplomatic relations, and with the Sublime Porte, the best understanding prevails. From all, I continue to receive assurances of good will towards the United States—assurances which it gives me no less pleasure to reciprocate than to receive. With all, the engagements which have been entered into, are fulfilled with good faith on both sides. Measures have also been taken to enlarge our friendly relations and extend our commercial intercourse with other States. The system we have pursued of aiming at no exclusive advantages, of dealing with all on terms of fair and equal reciprocity, and of adhering scrupulously to all our engagements, is well calculated to give success to efforts intended to be mutually beneficial.

The wars, of which the southern part of this continent was so long the theatre, and which were carried on either by the mother country against the states which had formerly been her colonies, or by the states against each other, having terminated, and their civil dissensions having so far subsided, as, with few exceptions, no longer to disturb the public tranquillity, it is earnestly hoped those states will be able to employ themselves without interruption in perfecting their institutions, cultivating the arts of peace, and promoting, by wise councils and able exertions, the public and private prosperity which their patriotic struggles so well entitle them to enjoy.

With those states our relations have undergone but little change during the present year. No reunion having yet taken place between the states which composed the Republic of Colombia, our charge d'affaires at Bogota has been accredited to the Government of New Granada, and we have, therefore, no diplomatic relations with Venezuela and Equator, except as they may be included in those heretofore formed with the Colombian Republic. It is understood that representatives from the three states were about to assemble at Bogota, to confer on the subject of their mutual interests, particularly that of their union; and if the result should render it necessary, measures will be taken on our part to preserve with each that friendship and those liberal commercial connexions which it has been the constant desire of the United States to cultivate with their sister republics of this hemisphere. Until the important question of reunion shall be settled, however, the different matters which have been under discussion between the United States and the Republic of Colombia, or either of the states which composed it, are not likely to be brought to a satisfactory issue.

In consequence of the illness of the chargé d'affaires appointed to Central America at the last session of Congress, he was prevented from proceeding on his mission until the month of October. It is hoped, however, that he is by this time at his post, and that the official intercourse, unfortunately so long interrupted, has been thus renewed on the part of the two nations, so amicably and advantageously connected by engagements founded on the most enlarged principles of commercial reciprocity.

It is gratifying to state that, since my last annual message, some of the most important claims of our fellow-citizens upon the Government of Brazil have been satisfactorily adjusted, and a reliance is placed on the friendly dispositions manifested by it that justice will also be done

in others. No new causes of complaint have arisen; and the trade between the two countries flourishes under the encouragement secured to it by the liberal provisions of the treaty.

It is cause of regret, that, owing probably to the civil dissensions which have occupied the attention of the Mexican Government, the time fixed by the treaty of limits with the United States for the meeting of the commissioners to define the boundaries between the two nations, has been suffered to expire without the appointment of any commissioners on the part of that Government. While the true boundary remains in doubt by either party, it is difficult to give effect to those measures which are necessary to the protection and quiet of our numerous citizens residing near that frontier. The subject is one of great solicitude to the United States, and will not fail to receive my earnest attention.

The treaty concluded with Chili, and approved by the Senate at its last session, was also ratified by the Chilian Government, but with certain additional and explanatory articles of a nature to have required it to be again submitted to the Senate. The time limited for the exchange of the ratifications, however, having since expired, the action of both Governments on the treaty will again become necessary.

The negotiations commenced with the Argentine Republic, relative to the outrages committed on our vessels engaged in the fisheries at the Falkland islands, by persons acting under the color of its authority, as well as the other matters in controversy between the two Governments, have been suspended by the departure of the chargé d'affaires of the United States from Buenos Ayres. It is understood, however, that a minister was subsequently appointed by that Government to renew the negotiation in the United States, but, though daily expected, he has not yet arrived in this country.

With Peru no treaty has yet been formed, and with Bolivia no diplomatic intercourse has yet been established. It will be my endeavor to encourage those sentiments of amity and that liberal commerce which belong to the relations in which all the independent states of this continent stand towards each other.

I deem it proper to recommend to your notice the revision of our consular system. This has become an important branch of the public service, inasmuch as it is intimately connected with the preservation of our national character abroad, with the interest of our citizens in foreign countries, with the regulations and care of our commerce, and with the protection of our seamen. At the close of the last session of Congress I communicated a report from the Secretary of State upon the subject, to which I now refer, as containing information which may be useful in any inquiries that Congress may see fit to institute with a view to a salutary reform of the system.

It gives me great pleasure to congratulate you upon the prosperous condition of the finances of the country, as will appear from the report which the Secretary of the Treasury will, in due time, lay before you. The receipts into the Treasury during the present year will amount to more than thirty-two millions of dollars. The revenue derived from customs will, it is believed, be more than twenty-eight millions, and the public lands will yield about three millions. The expenditures within the year, for all objects, including two million five hundred and seventy-two thousand two hundred and forty dollars and ninety-nine cents on account of the public debt, will not amount to twenty-five millions, and a large balance will remain in the Treasury after satisfying all the appropriations chargeable on the revenue for the present year.

The measures taken by the Secretary of the Treasury will probably enable him to pay off, in the course of the present year, the residue of the exchanged four and a half per cent. stock, redeemable on the first day of January next; it has, therefore, been included in the estimated expenditures of this year, and forms a part of the sum above stated to have been paid on account of the public debt: the payment of this stock will reduce the whole debt of the United States, funded and unfunded, to the sum of $4,760,082 08; and, as provision has already been made for the four and a half per cent. above mentioned, and charged in the expenses of the present year, the sum last stated is all that now remains of the national debt; and the revenue of the coming year, together with the balance now in the Treasury, will be sufficient to discharge it, after meeting the current expenses of the Government. Under the power given to the Commissioners of the Sinking Fund, it will, I have no doubt, be purchased on favorable terms within the year.

From this view of the state of the finances, and the public engagements yet to be fulfilled, you will perceive that, if Providence permits me to meet you at another session, I shall have the high gratification of announcing to you that the national debt is extinguished. I cannot refrain from expressing the pleasure I feel at the near approach of that desirable event. The short period of time within which the public debt will have been discharged, is strong evidence of the abundant resources of the country, and of the prudence and economy with which the Government has heretofore been administered. We have waged two wars since we became a nation, with one of the most powerful kingdoms in the world; both of them undertaken in defence of our dearest rights—both successfully prosecuted and honorably terminated; and many of those who partook in the first struggle, as well as the second, will have lived to see the last item of the debt incurred in these necessary but expensive conflicts, faithfully and honestly discharged; and we shall have the proud satisfaction of bequeathing to the public servants who follow us in the administration of the Government, the rare blessing of a revenue sufficiently abundant, raised without injustice or oppression to our citizens, and unencumbered with any burdens but what they themselves shall think proper to impose upon it.

The flourishing state of the finances ought not, however, to encourage us to indulge in a lavish expenditure of the public treasure. The receipts of the present year do not furnish the test by which we are to estimate the income of the next. The changes made in our revenue system by the acts of Congress of 1832 and 1833, and more especially by the former, have swelled the receipts of the present year far beyond the amount to be expected in future years upon the reduced tariff of duties. The shortened credits on revenue bonds, and the cash duties on woollens, which were introduced by the act of 1832, and took effect on the 4th of March last, have brought large sums into the Treasury in 1833, which, according to the credits formerly given, would not have been payable until 1834, and would have formed a part of the income of that year. These causes would of themselves produce a great diminution of the receipts in the year 1834, as compared with the present one, and they will be still more diminished by the reduced rates of duties which take place on the 1st of January next on some of the most important and productive articles. Upon the best estimates that can be made, the receipts of the next year, with the aid of the unappropriated amount now in the Treasury, will not be much more than sufficient to meet the expenses of the year, and pay the small remnant of the national debt which yet remains unsatisfied. I cannot, therefore, recommend to you any alteration in the present tariff of duties. The rate as now fixed by law on the various articles was adopted at the last session of Congress as a matter of compromise with unusual unanimity; and unless it is found to produce more than the necessities of the Government call for, there would seem to be no reason, at this time, to justify a change.

But, while I forbear to recommend any further reduction of the duties beyond that already provided for by the existing laws, I must earnestly and respectfully press upon Congress the importance of abstaining from all appropriations which are not absolutely required for the public interests, and authorized by the powers clearly delegated to the United States. We are beginning a new era in our Government. The national debt, which has so long been a burden on the Treasury, will be finally discharged in the course of the ensuing year. No more money will afterwards be needed than what may be necessary to meet the ordinary expenses of the Government. Now, then, is the proper moment to fix our system of expenditure on firm and durable principles; and I cannot too strongly urge the necessity of a rigid economy, and an inflexible determination not to enlarge the income beyond the real necesities of the Government, and not to increase the wants of the Government by unnecessary and profuse expenditures. If a contrary course should be pursued, it may happen that the revenue of 1834 will fall short of the demands upon it: and after reducing the tariff in order to lighten the burdens of the people, and providing for a still further reduct'on to take effect hereafter, it would be much to be deplored if, at the end of another year, we should find ourselves obliged to retrace our steps, and impose additional taxes to meet unnecessary expenditures.

It is my duty, on this occasion, to call your attention to the destruction of the public building occupied by the Treasury Department, which happened since the last adjournment of Congress. A thorough inquiry into the causes of this loss was directed and made at the time, the result of which will be duly communicated to you. I take pleasure, however, in stating here, that, by the laudable exertions of the officers of the Department, and many of the citizens of the District, but few papers were lost, and none that will materially affect the public interest.

The public convenience requires that another building should be erected as soon as practicable, and, in providing for it, it will be advisable to enlarge, in some manner, the accommodations for the public officers of the several Departments, and to authorize the erection of suitable depositories for the safe-keeping of the public documents and records.

Since the last adjournment of Congress, the Secretary of the Treasury has directed the money of the United States to be deposited in certain State banks designated by him, and he will immediately lay before you his reasons for this direction. I concur with him entirely in the view he has taken of the subject, and some months before the removal I urged upon the Department the propriety of taking that step. The near approach of the day on which the charter will expire, as well as the conduct of the bank, appeared to me to call for this measure, upon the high considerations of public interest and public duty. The extent of its misconduct, however, although known to be great, was not at that time fully developed by proof. It was not until late in the month of August that I received from the Government directors an official report, establishing beyond question that this great and powerful institution had been actively engaged in attempting to influence the elections of the public officers by means of its money, and that, in violation of the express provisions of its charter, it had, by a formal resolution, placed its funds at the disposition of its president, to be employed in sustaining the political power of the bank. A copy of this resolution is contained in the report of the Government directors, before referred to; and, however the objects may be disguised by cautious language, no one can doubt that this money was, in truth, intended for electioneering purposes, and the particular uses to which it is proved to have been applied, abundantly show that it was so understood. Not only was the evidence complete as to the past application of the money and power of the bank to electioneering purposes, but that the resolution of the board of directors authorized the same course to be pursued in future.

It being thus established, by unquestionable proof, that the Bank of the United States was converted into a permanent electioneering engine, it appeared to me that the path of duty which the Executive department of the Government ought to pursue was not doubtful. As, by the terms of the bank charter, no officer but the Secretary of the Treasury could remove the deposites, it seemed to me that this authority ought to be at once exerted to deprive that great corporation of the support and countenance of the Government in such a use of its funds and such an exertion of its power. In this point of the case, the question is distinctly presented, whether the people of the United States are to govern through representatives chosen by their unbiased suffrages, or whether the money and power of a great corporation are to be secretly exerted to influence their judgment and control their decisions. It must now be determined whether the bank is to have its candidates for all offices in the country, from the highest to the lowest, or whether candidates on both sides of political questions shall be brought forward, as heretofore, and supported by the usual means.

At this time the efforts of the bank to control public opinion through the distresses of some and the fears of others, are equally apparent, and, if possible, more objectionable. By a curtailment of its accommodations more rapid than any emergency requires, and even while it retains specie to an almost unprecedented amount in its vaults, it is attempting to produce great embarrassment in one portion of the community, while, through presses known to have been sustained by its money, it attempts, by unfounded alarms, to create a panic in all.

These are the means by which it seems to expect that it can force a restoration of the deposites, and, as a necessary consequence, extort from Congress a renewal of its charter. I am happy to know that, through the good sense of our people, the effort to get up a panic has hitherto failed, and that, through the increased accommodations which the State banks have been enabled to afford, no public distress has followed the exertions of the bank; and it cannot be doubted that the exercise of its power, and the expenditure of its money, as well as its efforts to spread groundless alarm, will be met and rebuked as they deserve. In my own sphere of duty, I should feel myself called on, by the facts disclosed, to order a *scire facias* against the bank, with a view to put an end to the chartered rights it has so palpably violated, were it not that the charter itself will expire as soon as a decision would probably be obtained from the court of last resort.

I called the attention of Congress to this subject in my last annual message, and informed them that such measures as were within the reach of the Secretary of the Treasury, had been taken to enable him to judge whether the public deposites in the Bank of the United States were entirely safe; but that, as his single powers might be inadequate to the object, I recommend the subject to Congress, as worthy of their serious investigation: declaring it as my opinion that an inquiry into the transactions of that institution, embracing the branches as well as the principal bank, was called for by the credit which was given throughout the country to many serious charges impeaching their character; and which, if true, might justly excite the apprehension that they were no longer a safe depository for the public money. The extent to which the examination, thus recommended, was gone into, is spread upon your journals, and is too well known to require to be stated. Such as was made resulted in a report from a majority of the Committee of Ways and Means, touching certain specified points only, concluding with a resolution that the Government deposites might safely be continued in the Bank of the United States. This resolution was adopted at the close of the session, by the vote of a majority of the House of Representatives.

Although I may not always be able to concur in the views of the public interest, or the duties of its agents, which may be taken by the other departments of the Government, or either of its branches, I am, notwithstanding, wholly incapable of receiving otherwise than with the most sincere respect, all opinions or suggestions proceeding from such a source; and in respect to none am I more inclined to do so, than to the House of Representatives. But it will be seen, from the brief views at this time taken of the subject by myself, as well as the more ample ones presented by the Secretary of the Treasury, that the change in the deposites which has been ordered, has been deemed to be called for by considerations which are not affected by the proceedings referred to, and which, if correctly viewed by that Department, rendered its act a matter of imperious duty.

Coming as you do, for the most part, immediately from the people and the States, by election, and possessing the fullest opportunity to know their sentiments, the present Congress will be sincerely solicitous to carry into full and fair effect the will of their constituents in regard to this institution. It will be for those in whose behalf we all act, to decide whether the Executive department of the Government, in the steps which it has taken on this subject, has been found in the line of its duty.

The accompanying report of the Secretary of War, with the documents annexed to it, exhibit the operations of the War Department for the past year, and the condition of the various subjects intrusted to its administration.

It will be seen from them that the army maintains the character it has heretofore acquired for efficiency and military knowledge. Nothing has occurred since your last session to require its services beyond the ordinary routine of duties, which upon the seaboard and the inland frontier devolve upon it in a time of peace. The system, so wisely adopted and so long pursued, of constructing fortifications at exposed points, and of preparing and collecting the supplies necessary for the military defence of the country, and thus providently furnishing in peace the means of defence in war, has been continued with the usual results. I recommend to your consideration the various subjects suggested in the report of the Secretary of War. Their adoption would promote the public service and meliorate the condition of the army.

Our relations with the various Indian tribes have been undisturbed since the termination of the difficulties growing out of the hostile aggressions of the Sac and Fox Indians. Several treaties have been formed for the relinquishment of territory to the United States, and for the migration of the occupants to the region assigned for their residence west of the Mississippi. Should these treaties be ratified by the Senate, provision will have been made for the removal of almost all the tribes now remaining east of that river, and for the termination of many difficult and embarrassing questions arising out of their anomalous political condition. It it to be hoped that those portions of two of the Southern tribes, which, in that event, will present the only remaining difficulties, will realize the necessity of emigration, and will speedily resort to it. My original convictions upon this subject have been confirmed by the course of events for several years, and experience is every day adding to their strength. That those tribes cannot exist, surrounded by our settlements, and in continual contact with our citizens, is certain. They have neither the intelligence, the industry, the moral habits, nor the desire of improvement, which are essential to any favorable change in their condition. Established in the midst of another and a superior race, and without appreciating the causes of their inferiority, or seeking to control them, they must necessarily yield to the force of circumstances, and ere long disappear. Such has been their fate heretofore, and if it is to be averted, and it is, it can only be done by a general removal beyond our boundary, and by a reorganization of their political system upon principles adapted to the new relations in which they will be placed. The experiment which has been recently made has so far proved successful. The emigrants generally are represented to be prosperous and contented, the country suitable to their wants and habits, and the essential articles of subsistence easily procured. When the report of the commissioners now engaged in investigating the condition and prospects of these Indians, and in devising a plan for their intercourse and government, is received, I trust ample means of information will be in possession of the Government for adjusting all the unsettled questions connected with this interesting subject.

The operations of the navy during the year, and its present condition, are fully exhibited in the annual report from the Navy Department.

Suggestions are made by the Secretary of various improvements, which deserve careful consideration, and most of which, if adopted, bid fair to promote the efficiency of this important branch of the public service. Among these are the new organization of the Navy Board, the revision of the pay to officers, and a change in the period of time, or in the manner of making the annual appropriations, to which I beg leave to call your particular attention.

The views which are presented on almost every portion of our naval concerns, and especially on the amount of force and the number of officers, and the general course of policy appropriate in the present state of our country, for securing the great and useful purposes of naval protection in peace, and due preparation for the contingencies of war, meet with my entire approbation.

It will be perceived, from the report referred to, that the fiscal concerns of the establishment are in an excellent condition; and it is hoped that Congress may feel disposed to make promptly every suitable provision desired, either for preserving or improving the system.

The General Post Office Department has continued, upon the strength of its own resources, to facilitate the means of communication between the various portions of the Union with increased activity. The method, however, in which the accounts of the transportation of the mail have always been kept, appears to have presented an imperfect view of its expenses. It has recently been discovered that, from the earliest records of the Department, the annual statements have been calculated to exhibit an amount considerably short of the actual expense incurred for that service. These illusory statements, together with the expense of carrying into effect the law of the last session of Congress establishing new mail routes, and a disposition on the part of the head of the Department to gratify the wishes of the public in the extension of mail facilities, have induced him to incur responsibilities for their improvement, beyond what the current resources of the Department would sustain. As soon as he had discovered the imperfection of the method, he caused an investigation to be made of its results, and applied the proper remedy to correct the evil. It became necessary for him to withdraw some of the improvements which he had made, to bring the expenses of the Department within its own resources. These expenses were incurred for the public good, and the public have enjoyed their benefit. They are now but partially suspended, and that where they may be discontinued with the least inconvenience to the country.

The progressive increase in the income from postages has equalled the highest expectations, and it affords demonstrative evidence of the growing importance and great utility of this Department. The details are exhibited in the accompanying report of the Postmaster General.

The many distressing accidents which have of late oc-

curred in that portion of our navigation carried on by the use of steam power, deserve the immediate and unremitting attention of the constituted authorities of the country. The fact that the number of those fatal disasters is constantly increasing, notwithstanding the great improvements which are every where made in the machinery employed, and in the rapid advances which have been made in that branch of science, show very clearly that they are in a great degree the result of criminal negligence on the part of those by whom the vessels are navigated, and to whose care and attention the lives and property of our citizens are so extensively intrusted.

That these evils may be greatly lessened, if not substantially removed, by means of precautionary and penal legislation, seems to be highly probable; so far, therefore, as the subject can be regarded as within the constitutional purview of Congress, I earnestly recommend it to your prompt and serious consideration.

I would also call your attention to the views I have heretofore expressed of the propriety of amending the contitution in relation to the mode of electing the President and Vice President of the United States. Regarding it as all important to the future quiet and harmony of the people that every intermediate agency in the election of these officers should be removed, and that their eligibility should be limited to one term of either four or six years, I cannot too earnestly invite your consideration of the subject.

Trusting that your deliberations on all the topics of general interest to which I have adverted, and such others as your more extensive knowledge of the wants of our beloved country may suggest, may be crowned with success, I tender you, in conclusion, the co-operation which it may be in my power to afford them.

ANDREW JACKSON.

WASHINGTON, *December* 3, 1833.

Documents accompanying the President's Message.

REPORT OF THE SECRETARY OF WAR.

DEPARTMENT OF WAR,
November 29, 1833.

To the President of the United States:

SIR: In submitting to you, agreeably to your instructions, a report of the operations and administration of this Department for the past year, it affords me pleasure to bear my testimony to the zeal and ability of the respective officers at the head of the various bureaus, and of those employed to aid them in the performance of the important functions committed to this branch of the Executive Government.

A reference to the accompanying report and documents will show the state of the army, as well with relation to its numbers, and their position and condition, as to the progress of the various works intrusted to them, and the collection and preservation of the necessary *materiel* for offensive and defensive operations, which is indispensable to the safety of the country. The principle which governed the reduction of the army from a war to a peace establishment has been found, by subsequent experience, to be salutary, and its practical operation has been to form a body of officers equal in all the requisites of military knowledge and efficiency to those of any other service which is known to us. The army is so organized that, should an increase become necessary in consequence of those conflicts of interest and opinion to which all nations in their intercourse with one another have been exposed, and from which we have no right to expect perpetual exemption, any reasonable addition may be made to it without disturbing its arrangement; and the professional knowledge and experience imbodied in it will be immediately felt in the new corps, and will identify them with those previously in service. The military experience of other countries, as well as of our own, has shown that the system of extension, by which new and old troops are incorporated together, is much better calculated to produce discipline and subordination, and thus to meet the exigencies of a service which does not allow large bodies of troops to be kept up in time of peace, than the organization of separate corps, composed of inexperienced officers and men with all their military knowledge to acquire, and all their military habits to form. And this is more particularly true of the staff departments of an army, upon which its movement, its subsistence, and the economy of its administration must principally depend. The system established in our service is equally creditable to the army and satisfactory to the Government, and may be applied to any necessary extent without any diminution of that economy and efficiency which have heretofore marked its operation.

Much advantage is anticipated from the operation of the act passed at the last session of Congress for improving the condition of the army. Already its effects have been felt (as the subjoined documents will show) in the decrease of desertion, and in the increase of the business of recruiting. The addition to the pay of the rank and file, the reduction of the term of service, and the improved condition of the non-commissioned officers, promise important meliorations in the character of the army. This prospect cannot but be interesting to the Government and the country. Although the numerical strength of the army is comparatively small, it is yet sufficient to excite public solicitude; and this must be increased by the consideration that the character of our military establishment may hereafter essentially depend upon the measures now taken for its moral and intellectual advancement. Although it were idle, in the present state of the country, to apprehend any danger from the force which is employed, still, the lessons of experience taught by the progress of events in other nations ought not to be neglected, nor the possibility overlooked that other circumstances may lead to the increase of our military strength, and to the diminution of that wise jealousy which is now one of our national characteristics. Moral habits in the soldiery constitute one of the best safeguards against the abuse of military power, and their inculcation has engaged the attention of this Department during successive periods of its administration. Amongst other measures which have been adopted with this view, you have recently directed the discontinuance of all parades on Sunday, in order that that day may be exclusively devoted to the purposes of instruction and improvement. Certainly, in time of peace, no just reason can exist for converting a day of rest and devotion into a day of military parade.

The act for the better defence of the frontiers, by raising a regiment of dragoons, is in the process of execution. About six hundred men have been enlisted, and most of the officers appointed, and five of the companies have been ordered to proceed to Fort Gibson, upon the Arkansas, where they will be stationed during the winter. The remainder of the regiment will be concentrated at Jefferson barracks this season, and it is intended, in the spring, to order the whole to proceed through the extensive Indian regions between the western boundaries of Missouri and Arkansas and the Rocky mountains. It is deemed indispensable to the peace and security of the frontiers that a respectable force should be displayed in that quarter, and that the wandering and restless tribes who roam through it should be impressed with the power of the United States by the exhibition of a corps so well qualified to excite their respect. These Indians are beyond the reach of a mere infantry force. Without stationary residences, and possessing an abundant supply of horses, and with habits admirably adapted to their use,

they can be held in check only by a similar force, and by its occasional display among them. Almost every year has witnessed some outrage committed by them upon our citizens, and as many of the Indian tribes from the country this side of the Mississippi have removed and are removing to that region, we may anticipate their exposure to these predatory incursions unless vigorous measures are adopted to repel them. We owe protection to the emigrants, and it has been solemnly promised to them. And this duty can only be fulfilled by repressing and punishing every attempt to disturb the general tranquillity. Policy and humanity equally dictate this course, and there is reason to hope that the display of this force will itself render unnecessary its hostile employment. The more barbarous tribes will perceive that their own safety is closely connected with the permanent establishment of pacific relations, both with the United States and with the other Indians.

It is due to the regiment of dragoons to remark that its composition is believed to be good, and I anticipate it will do honor to the army, and render effectual service to the country.

I feel it a duty once more to ask your favorable interposition in behalf of the medical corps. There is no portion of the army whose compensation is so utterly inadequate to their services. The pay of the highest grade but little exceeds that of a captain, and the pay of the lowest that of a first lieutenant; and these two grades constitute the whole range of service within the reach of medical officers. In the line of the army, and most of the staff departments, there are successive gradations of rank, each with increased emolument, to stimulate the exertions and to reward the services of the officers. The importance of professional skill and talent in the medical corps will not be doubted; and the dispersed condition of our army in time of peace, and its exposure to the effects of various climates, render the conservation of its health an object of much solicitude; and, in time of war, this solicitude will be increased by the perils of active service.

In order to place in a proper condition this branch of our military establishment, a system of examination has been recently instituted, by which the pretensions of medical gentlemen, seeking appointments in the army, will be subjected to rigid scrutiny. A board, composed of able and experienced surgeons, has been organized, and the various members of the department have been examined by them. The result has already been highly useful, and cannot fail to be so for the future. But, while the standard of professional acquirements is thus increased, justice demands that the rate of compensation should be examined, and that it should be rendered commensurate with the duties and responsibility of this most useful class of officers. It is not to be expected that the medical corps can retain the able men who now compose it, or see others join it, unless their services are adequately rewarded.

The act organizing the subsistence department expires, by its own limitation, on the 2d day of March next. It was originally passed in 1818, and has been continued by successive temporary acts, till the present time. The reason of this course of legislation is undoubtedly to be found in the fact that the introduction of the system was an experiment, and it was deemed prudent to test its operations before a permanent character was given to it. This has been fully done, and the result is, in every point of view, satisfactory. All who were acquainted with the mode of supplying the army previously to, and during the late war, and for a few years after its termination, must be sensible of the superiority of the present plan. In the quality of the provisions, in the certainty of the supply, and in the economy of administration, its operation is decidedly superior to the old system, where contractors furnished and issued all the subsistence required. The continued failures that took place, and frequently in the most critical state of affairs, the controversies arising out of the perpetual attempts to issue unsound provisions, and the serious obstacle which these and the other operations of the system interposed to the public service, must be fresh in the recollection of every military man who participated in the events of those periods. The army is now well and promptly supplied, and the faithful officer at the head of the subsistence department has established a system of purchasing, of issuing, and of responsibility, which, while it insures this result, guards the public interest against loss and imposition, so far as a business necessarily so extended permits. During the fifteen years in which this department has been in operation, more than five millions and a half of dollars have been expended under its direction, and the whole loss which has been incurred by the defalcations of its officers, does not amount to sixteen thousand dollars.

I consider that the time has arrived when the present arrangement should be rendered permanent, and I therefore present the subject with that view to your notice. And I also beg leave to suggest that the compensation to the clerks in the office should be increased. It is now lower than the average amount allowed in the other public offices, and less than is due to their labor and responsibility.

The report of the visiters appointed to examine the Military Academy shows that the institution is in a prosperous condition, and is fulfilling the duties committed to it, in the education of the young men destined for the military service of the country. The suggestions made by the visiters for the improvement of this national school, are the result of a careful examination, and, coming as they do from a body of able and impartial citizens, are entitled to much consideration. They appear to me just in themselves, and promising, in the event of their adoption, salutary consequences to the institution.

There is one subject which I feel particularly desirous of placing before you. The situation of teacher of drawing corresponds neither with the nature and importance of the duties required of that officer, nor with the professional merit of the distinguished artist who has relinquished the fair prospects held out to him in a foreign country to accept it. The art itself is highly important to military men, and its acquisition is essential to a respectable standing at the academy. It is very desirable that the instructer should unite in his person those high qualifications, natural and acquired, which have in all ages been the lot of those who have attained eminence in the art, and which have placed it among those pursuits that are at once the cause and the effect of advanced improvement in society. I respectfully recommend that this officer be placed in the same situation as the professors at the academy, and I cannot but believe that such a measure would not only be just in itself, but would be a proper tribute of respect to the liberal arts, and a proper notice of one whose professional talents and success have been honorable to his country.

I have had the honor heretofore to submit to your consideration my views in relation to brevet commissions in the army, and I am induced, as an act of justice to those entitled to them, again to present the subject. If no new legislation is contemplated, nor any action of the Senate, which shall change the principle or practice heretofore prevalent, no objections occur to me to delay, any longer, these promotions. The officers have earned them by length of service, agreeably to the established usage; and to make a discrimination without any previous declaration, so as to exclude from this advantage those who are at this time entitled to it, does not seem called for by the exigency of any circumstance connected with this subject. And, in fact, there are no very obvious reasons

occurring to me, why these professional honors, which, in common cases, make no demand upon the Treasury, but serve to foster those professional feelings which give elevation to the military character, should not be granted, as they have heretofore been. Under ordinary circumstances they will produce no practical operation, either with relation to emolument or command. When they should do either, it would be precisely when their value would be enhanced by the very state of things producing this change in their operation; when the greater experience of the brevet officer would entitle him to an enlarged command, and to a corresponding rank over those, whether in the regular army or the militia, whose qualifications, so far as these depend upon service, are less than his.

The attention of the army has been frequently drawn to a project for the establishment of a fund for the support of invalid officers, and of the widows and children of such as may die in the service. The object is a commendable one, and, as the only aid expected of the Government is such legislative provision as may be necessary to give effect to the measure, in conformity with the general views of the officers of the army, it is certainly entitled to the favorable regard of the Government. A moderate and stated deduction from the pay of each officer would create a fund which would afford essential relief to many who otherwise would be exposed to want and penury, and might soothe the declining years of meritorious officers who may have necessarily expended in the maintenance of their families the whole allowance made to them by law, and who, without such an arrangement, would look forward with anxiety for the future. Whatever plan may be ultimately adopted, a legal organization is essential to its operation and success. And as the funds will be provided by the officers themselves, and for their own advantage, the administration will no doubt be committed to them, to be exercised by such persons and in such manner as they may direct. The considerations connected with this measure are so obviously just, and in accordance with the dictates of prudence and humanity, that I trust they will be favorably considered. And I also feel it my duty to bring before you a kindred subject connected with the rank and file of the army, and having for its object a provision for the support of superannuated soldiers. In our service, as at present organized, a soldier can only be retained as long as his physical powers are sufficient to enable him to perform the duties required of him. When his constitution fails, unless it is the result "of disability incurred in the line of his duty," he is discharged without any provision for his support, and, generally, from the habits of his life, without the disposition and too often the power to labor, and without the means of support. He is then thrown upon the charity of the community, after devoting the best of his life to the service of his country.

This result may be easily obviated without expense to the Government, and an ample provision made for those discharged soldiers who are unable to procure the means of support. The principle which has been long and wisely applied to the navy may be safely applied to the army. An inconsiderable deduction from the pay of each soldier would go far towards the creation of a fund for this purpose; and if this deduction were to commence with those who might enlist after the passage of the law, there could be no objections on account of the previous engagements formed with the soldiers. And there are three auxiliary sources of revenue which may be applied towards the former object. These are—

Fines assessed by courts martial;

The pay due to soldiers who may die without leaving any heirs to claim it;

A proportion of the post fund, which is principally derived from a tax upon sutlers.

It is believed that the means which may be realized agreeably to this suggestion would be found sufficient to provide for the maintenance of this class of persons, whose condition is now so hopeless, and so unsuited to the character of the Government and the feelings of the community.

The experience of every year adds to the conviction that the sooner the Indians remaining east of the Mississippi migrate to the region west of that river, the sooner will they be relieved from the embarrassments of their present position, and placed in a situation where they may physically and morally improve, and look forward to a prosperous and permanent destiny. All the reports which reach the Department upon this subject, concur in the representation that the emigrants already there are comfortable and contented; that the region assigned to them is fertile, salubrious, and as extensive as they and their descendants, for many generations, can require. They are making improvements and erecting dwellings, and are evidently laying the foundations of a social system which, it is to be hoped, will afford them security and prosperity. As a striking proof of their improvement, and of the quantity of provisions raised among them, it may be stated that one of the contracts for furnishing provisions has been taken by a Choctaw, who is said to have a supply of his own amply sufficient to enable him to meet his engagement. It is fortunate for the Indians themselves, and for the great cause of humanity, that the efforts of the Government to persuade them peaceably and voluntarily to remove, are every year crowned with more and more success. Since the last annual report from this Department, the conditional arrangement made by the Seminoles for their emigration has been rendered absolute by a personal inspection of the country proposed for their residence. They have examined and are satisfied with it; and if the treaty should be ratified by the Senate, they will soon leave the Territory of Florida. An arrangement has also been made with the separate bands in that Territory by which they have agreed to emigrate; and thus provision has been made for the removal of the whole Indian population from Florida.

The treaty with the Chickasaws has terminated all difficulties with that tribe. It is understood that the exploring party provided for in that instrument are about to commence their journey with a view to select a residence west of the Mississippi. If they succeed, they will remove within the period limited; if they do not, and choose to remain, they will become, with their own consent, citizens of Mississippi, and will occupy, as absolute owners, the several tracts of land assigned to them.

The obligations assumed by the United States in the treaty with the Choctaws, for the removal of those Indians, have been fulfilled. From the reports which have been made to the Department, it appears that about fifteen thousand individuals of this tribe have been removed. A party, estimated to contain from fifteen hundred to three thousand persons, have changed their usual place of residence in Alabama, and have declined accompanying other Indians in their emigration. It is believed that this party is composed principally of the worst portion of the tribe, and that they intend to hang upon the white settlements, in order to indulge the vicious habits they have acquired. As the Government has scrupulously fulfilled its engagements with these people, which terminate with this year, and as every exertion has been made by the proper agents to induce them to remove, nothing remains but to leave them to the results of their own experience. It cannot be long before they will feel the necessity of rejoining the great body of the tribe.

Satisfied as you have been, that the very existence of the Creeks in Alabama required their establishment in the country west of the Mississippi, where so many of their tribe already reside, you have not hesitated to em-

brace every opportunity which offered of accomplishing this object. Instructions have been three times given to ascertain their views, and to endeavor to persuade them to acquiesce in this course. The two first attempts proved unsuccessful: the result of the last is unknown. Independent of the general reasons arising out of our Indian relations, which operated to induce these efforts, the peculiar state of things among these Indians, and a strong desire to remove the difficulties connected with them, had much influence in directing the negotiations.

The Sacs and Foxes have quietly removed to the region assigned to them, and the Winnebagoes have left the country upon Rock river, agreeably to the stipulations of the treaty with them, and retired across the Mississippi, to their lands north of the Ouisconsin.

Treaties have been formed with the Pottawatamies, Chippewas, and Ottawas, claiming the district on the west side of Lake Michigan, south of Green Bay, and north of Chicago, for its cession to the United States, and with the Pottawatamies of the peninsula of Michigan for the relinquishment of their reservation south of Grand river.

With the exception, therefore, of the Miamies, in the State of Indiana, of a band of the Wyandots, at Upper Sandusky, in Ohio, and of scattered portions of the Ottawas and Chippewas, in the peninsula of Michigan, north of Grand river, and of Saginaw bay, probably not exceeding, altogether, five thousand individuals, the whole country north of the Ohio and east of the Mississippi, including the States of Ohio, Indiana, and Illinois, and the Territory of Michigan as far as the Fox and Ouisconsin rivers, has been cleared of the embarrassments of Indian relations; and the Indianst hemselves have either already emigrated, or have stipulated to do so within limited periods, and upon such terms as will ensure them adequate subsistence and the means of establishing themselves comfortably in their new residence, unless, indeed, the aid and efforts of the Government are rendered useless by their habitual indolence and improvidence. The Cherokees occupying portions of land in Georgia, Alabama, North Carolina, and Tennessee, and probably not exceeding eleven thousand persons, are the only Indians south of the Ohio and east of the Mississippi, with whom an arrangement has not been made, either for emigration or for a change of political relations. It is to be regretted that the same causes which have heretofore prevented an adjustment of the difficulties of that tribe, and their removal west, yet continue to defeat the efforts of the Government. These causes are, no doubt, principally to be traced to the ascendency of particular individuals, and to their desire to retain political influence and power. It is expected that about five hundred of these Indians will remove west this season, and the residue of the Cherokees then remaining east of the Mississippi will be, agreeably to previous computations, about ten thousand five hundred.

The commissioners west of the Mississippi are engaged in the execution of the duties connected with our Indian relations in that quarter. They have succeeded in arranging, satisfactorily, the disputed question of boundaries between the Creeks and Cherokees, which has, for some time, occasioned much embarrassment. They have also formed treaties with the Creeks, the Cherokees, the Senecas, and Shawanese, the Quapaws, and the Seminoles, of Florida, by which all matters connected with these tribes have been satisfactorily adjusted. Their labors will be now directed to the other subjects indicated in their instructions, and which are important to a permanent arrangement of the various questions arising out of the new state of things which will be created in that region. Among these, one of the most interesting is a practical plan for regulating the intercourse of the various tribes, indigenous and emigrant, with one another, and with the United States, and for the establishment of some general principles by which their own internal government can be safely administered by themselves, and a general superintending authority exercised by the United States, so far as may be necessary to restrain hostilities among them and incursions into our borders. Until such a system is adopted, it is evident that the condition of these Indians cannot be secure, nor will the obligation imposed upon the Government be fulfilled. The task requires an intimate knowledge of the local circumstances of the tribes of that region, and of the country they inhabit, and a practical acquaintance with Indian habits, feelings, and mode of life. I trust the commissioners will be able to report a plan which will fulfil the expectation of those who have observed, with solicitude, the course of this matter, and which will eventually secure the prosperity of the Indians. As it is probable, however, that this cannot be effected within the time limited for the duties of the commissioners, I would respectfully suggest the propriety of their term of service being prolonged until the close of the next year.

There have been presented for allowance, under the pension act of June 7, 1832, thirty thousand six hundred claims. The whole of these have been examined, and either admitted, rejected, or returned to the parties for supplementary action. Twenty-three thousand four hundred and thirty-eight certificates have been issued, eleven hundred and eleven claims have been rejected, three hundred returned cases are in the office, awaiting or undergoing re-examination, thirteen hundred and fifty-one, which are incomplete in their proofs, are suspended till these are furnished, and four thousand four hundred and twenty-five are in the hands of the parties for additional evidence or authentication, or *in transitu* between them and the office.

It is creditable to the industry and efficiency of the Pension office that such a mass of business should have been performed within the period which has elapsed since the passage of the above law.

I have the honor to be,

Very respectfully, sir,

Your obedient servant,

LEWIS CASS.

REPORT OF THE MAJOR GENERAL OF THE ARMY.

Head Quarters of the Army,
Washington, November 23, 1833.

Sir: Since my last annual report on the state of the army, nothing meterial has occurred in the movements of the troops worthy of particular notice. The discipline of the several corps continues to be maintained with regularity, and there is every reason to believe that they are in a condition for active service.

The battalion of mounted rangers has been discharged, in conformity with your instructions, and the regiment of dragoons, authorized by the act of the 2d of March, 1833, in lieu of that battalion, has been partially raised. Five companies of it are mounted, and have been ordered to Fort Gibson under Colonel Dodge, to be in readiness to accompany the commissioners in the ensuing season, on their contemplated visit to the Indian country. The remaining five companies are being raised. The lateness of the selections and appointments of the captains and other officers, from the mounted rangers, has been the cause of the delay in filling the regiment: but there is every prospect that, before the end of the year, the regiment will be completed to its establishment.

The results expected to be produced by the operation of the act of the 2d of March of the last session of Congress, "for the improvement of the condition of the non-commissioned officers and privates of the army, and for

the prevention of desertion," so far as they can be ascertained, are decidedly favorable and satisfactory. The men who now offer to enlist, are found to be of a more respectable class, and the number of enlistments does not diminish. In regard to desertions, there are strong indications of the salutary operations of the law, as the average number of men who have deserted, for a given period since the passage of the bill is, by a comparison with the number of desertions for corresponding periods in the three years preceding, one-third less. A further proof of the beneficial influence of the law on the rank and file of the army is found in the fact that soldiers who have honorably completed their term of service, now more readily re-enlist, which is considered a decided advantage to the public, both as it regards economy in the expenditure for the military service, and in reference to the efficiency of the army.

In compliance with your instructions, I herewith furnish the following statements and returns:

1st. A statement showing the organization of the army, marked A.

2d. A return of the actual state of the army, marked B.

3d. A return exhibiting the strength of the Eastern Department, designating the posts and garrisons, marked C.

4th. A return exhibiting the strength of the Western Department, designating the posts and garrisons, marked D.

5th. A statement showing the number of recruits enlisted in the army from the 1st of January to the 30th of September, 1833, marked E.

6th. An estimate of the funds required for the recruiting service for the year 1834, marked F.

7th. An estimate of the contingent expenses of the head-quarters of the army, including those of the office of the Adjutant General, for the year 1834, marked G.

I have the honor to be, sir, your most obedient servant,

ALEXANDER MACOMB,
Major General commanding the Army.

Honorable LEWIS CASS,
Secretary of War.

REPORT OF THE QUARTERMASTER GENERAL.

QUARTERMASTER GENERAL'S OFFICE,
Washington City, November 27, 1833.

SIR: In obedience to your order, I have the honor to report the operations of this department for the first, second, and third quarters of the present year; in addition to which I include that portion of 1832 not embraced in my last annual report.

The balance remaining to be accounted for by the several officers of the department, at the date of that report, amounted to -		$87,230 14
To which is to be added:		
1. Remittances, viz.		
In the fourth quarter of last year, - - -	$218,652 45	
In the first quarter of the present year, - -	198,049 86	
In the second quarter of the present year, - -	304,124 99	
In the third quarter of the present year, - -	383,232 10	
In small sums during the year from other departments—not on requisitions from this office, but accounted for through it, - -	37,894 31	
Total amount of remittances, -		$1,141,953 71
2. Proceeds of the sales of public property, either unfit for service, or no longer required for public use, and rents received for public lands and buildings not required for military purposes, - -		26,221 15
3. Errors, overcharges, and disallowances credited by officers in their accounts with the department, from the second quarter of 1829 to the second quarter of 1832, as ascertained by an examination of the several accounts, - - - -		5,506 27
Making the total to be accounted for,		$1,260,911 27
Of which, there has been accounted for:		
1. By disbursements, viz.		
In the second and third quarters of 1832, not included in the last report, the accounts not having been received at its date, including an error in that report of $480 44, - -	$12,268 74	
In the fourth quarter of 1832,	294,601 11	
In the first quarter of 1833,	169,178 06	
In the second quarter of 1833,	241,100 03	
In the third quarter of 1833,	450,641 20	
	$1,167,789 65	
2. By deposites to the credit of the Treasurer of the United States, - -	1,835 14	
3. By amount turned over to the Ordnance department by the assistant quartermaster at Detroit, being part of the proceeds of public property sold at that place, - -	7,000 00	
Total accounted for,		1,176,624 79
Leaving a balance to be accounted for of		$84,286 48

The accounts of six officers remain to be received, which will reduce this balance $10,629. The remainder is distributed among more than fifty officers at the various posts in the Union, and is applicable to the service of the present quarter, and it is confidently believed that the whole of it will be applied to the proper objects, and accounted for at the close of the quarter.

The large amount of public property under the administration of the department is promptly accounted for by the officers who receive it, as well of the department as of the several corps of the army.

The balance remaining in the Treasury of the appropriation for the Quartermaster's department proper, with the sums due to it for expenditures on account of other branches of service, will be fully sufficient for all demands against it for the remainder of the year; but it is apprehended there will be an arrearage on account of the appropriation for the transportation of the army, and also on account of that for the travelling allowance of officers.

Of the public works under the direction of the department, the military road in the State of Maine, which has been in a course of construction for several years, is now completed, and is represented by the officer charged with its superintendence, to be of a superior character. Connecting as it does the sources of the Atlantic with an interior post on a distant frontier, it may be justly considered a work of importance, at least in its military relations.

The road from Fort Howard, Green Bay, to Fort Crawford, on the Mississippi river, has been surveyed and located during the present season. This is an important military communication, intended to connect three of the exterior posts on the Northwestern frontier. To complete the work, a further appropriation will be necessary.

The Washington and Jackson road, in the Territory of Arkansas, has been extended as far as the limited appropriation made at the last session of Congress for the purpose would warrant; but the road being a highly important communication, connecting the centre of the Territory with its frontier on the Red river, it should be put in a state to be used at all seasons of the year, for which purpose a further appropriation is required.

The road from Pensacola to Tallahassee, and thence to St. Augustine, in Florida, has been partially repaired; but the appropriations have been found altogether insufficient. Uniting as it does the posts on an important frontier, it should be kept at all times in good repair. I consider the small sums which have been appropriated for some years past, from their inadequacy, as money wasted. To put the road in good repair, a liberal appropriation is required.

That portion of the road from Memphis, Tennessee, to Little Rock, Arkansas, lying between the latter place and Saint Francis river, has been in a course of repair in pursuance of the appropriation made for that object.

Measures were taken early in the year to procure a suitable site for the barracks authorized in the vicinity of New Orleans, but the malignant diseases which have prevailed there throughout the season have occasioned much delay, and prevented any conclusive arrangement being made. The officer charged with the negotiation has, however, been instructed to close with one of the several propositions made; and an experienced officer is on his way to New Orleans, with instructions to adopt immediate and energetic measures to accomplish the work; and unless the diseases which have proved so destructive should continue through the winter, it is believed that accommodations for two companies, at least, may be ready by the first of June.

Arrangements have been made for repairing the barracks and building a hospital at Baton Rouge, but a further appropriation will be necessary to accomplish the work in a suitable manner.

A site has been obtained for the barracks authorized to be erected in the city of Savannah, and the officer charged with the superintendence has obtained a part of the materials, and has commenced the work. To complete it properly, a further appropriation is required.

The barracks at Fort Crawford, owing to the interruption of operations by the presence of the cholera, and causes connected with our Indian relations in that vicinity, have not yet been completed. They are, however, in progress, and the work will be prosecuted as steadily as circumstances will permit.

Nor has it been practicable to complete the barracks at Fort Howard, Green Bay. They are also in progress, but another season and an additional appropriation will be required to complete them.

The storehouse authorized to be erected in Pittsburg, Pennsylvania, has been completed in accordance with the appropriation for that object, and the necessary repairs have been bestowed on the wharf at Fort Washington, Maryland.

In regard to the Delaware breakwater, the experiment has now been fairly made. That work already affords a good harbor for the vessels engaged in transporting the materials used in its construction, as well as for such vessels engaged in commerce as take shelter under it in time of storm.

General Bernard's estimate to complete the work was - - - -	$2,216,950
The several appropriations up to this date amount altogether to - - -	1,160,000
Leaving, of the estimate not yet appropriated, a balance of - - -	$1,056,950

The whole length of the breakwater, according to the plan, is - - -		3,600 feet.
The deposite of stone already extends -		2,700 feet.
Of which there are elevated five feet above the plane of high water	1,007 feet.	
Nearly level with high water	950 feet.	
Averaging fifteen feet above the sea bottom - -	743 feet.	
The whole length of the ice breaker, according to the plan, is - - -		1,500 feet.
The deposite of stone extends already -		1,400 feet.
Of which there are elevated above the level of high water -	978 feet.	
Level with high water -	300 feet.	
Averaging fourteen feet above the sea bottom - -	122 feet.	

One hundred and fifty-four thousand four hundred and fifty-nine tons of stone were deposited during the past season, and if we had had money to pay for it, one hundred and fifty thousand tons more might readily have been deposited, with but little increase of the contingent expenses of the work.

I have increased the estimate for the ensuing year eighty thousand dollars, because there is no longer any doubt of the great advantage of the work to the commerce of the country. Twenty thousand dollars of that sum is for a permanent light-house, to be placed on the western extremity of the breakwater. It is required even now to point out the entrance into the harbor during the night, and it can be constructed at less expense while the operations upon the breakwater are in progress, than after they shall have terminated. If adequate appropriations be made, the work may be entirely finished in the year 1835.

The claim for furniture for their quarters has been preferred from time to time by a portion of the officers of the army; but as such an allowance has never been authorized in the land service, either by law or regulation, I have not considered it proper to present an estimate for the funds required to provide it, but I consider it to be my duty to submit the subject for your consideration; and I respectfully recommend, should you approve of the measure, that the attention of Congress be invited to it, and that an appropriation be asked for, at least sufficient to furnish the quarters of officers below the rank of brigadier general, stationed at permanent posts. Furniture is furnished for naval officers when serving at sea, and at the naval stations on shore. The officers of the army think they have an equal claim to it, for they cannot perceive that that which is right in relation to one service, can be wrong in relation to the other.

I have the honor to be, sir, your obedient servant,

TH. S. JESUP,
Quartermaster General.

The honorable Lewis Cass,
Secretary of War.

REPORT FROM THE ENGINEER DEPARTMENT.

Engineer Department,
Washington, November 23, 1833.

Sir: In accordance with your instructions, I have the honor to submit the following report of the operations of this department during the year ending the 30th September last. It presents a general view of the state of the works under the direction of the department at that date, and is accompanied by statements marked A, B, and C: the two first relate to its fiscal concerns, and the last exhibits the works projected by the Board of Engineers, which have not been commenced, and an estimate of their cost.

FORTIFICATIONS.

Fort Independence, Boston harbor.—In making the necessary preparations for commencing the repairs of this work, it was soon perceived that the amount of funds appropriated for that object would not be sufficient to effect it. The estimates were predicated upon the prices of materials and labor as they existed in 1831, since which they have risen about 25 per cent., judging by the best data that could be procured. Under these circumstances, it was deemed proper to limit the operations, for the present, on Castle island, to the building of the sea-wall, for its preservation, and the repairing of the southwest wharf. The former has been put under contract, and measures were taken for the early completion of the letter. An additional estimate for this fort will accordingly be submitted.

Fort Warren, George's island, Boston harbor.—The calls upon the department, during the last season, have been so numerous, and of a nature so pressing, as to render it impossible, with its limited means, to mature the plans for this work. Every effort in the way of preparation will, however, be made this fall and winter for the efficient prosecution of the preliminary works early next spring.

Fort Adams, Newport harbor, Rhode Island.—Great progress has been made in this work since my last report. The operations on it have been conducted in a manner altogether satisfactory; it is in a good state, and exhibits some of the finest specimens of workmanship to be met with in our public works.

Fort Hamilton, Narrows, New York.—There is a small amount of the last appropriation for this work, yet unexpended, in the hands of the agent. It will be applied in the course of the coming year, to give the work that degree of finish which can only be attained after the lapse of sufficient time to allow the defects in construction, that cannot be foreseen, to develop themselves.

Fort Columbus and Castle Williams, Governor's island, New York.—Satisfactory progress has been made in the repairs of Fort Columbus, which will be completed, it is believed, this fall, or early next spring. The operations for the repair of Castle Williams have been confined to the building of a wharf and the collection of materials; as it was deemed advisable to direct as much of the available means as might be found consistent with a due regard to economy, to the attainment of one object at a time.

Fort Schuyler, Throg's neck, East river, New York — The attention of the officer charged with the construction of this fort, has been directed principally to the accomplishment of such preparatory measures as shall enable him to commence and prosecute his operations with advantage, as soon as the plans shall be matured and adopted. These are not yet in readiness, in consequence of incessant engagements of the officers of the department.

Fort Delaware, Delaware river.—The latter end of April a commencement was made on the Pea Patch island, to construct the temporary quarters and workshops, preparatory to a demolition of the walls of the old fort. This object has been effected, and extended to provide for the accommodation of nearly all the laborers, mechanics, and others, whose time and services will be required in the construction of the work for the defence of this position.

Twenty-two thousand yards of the masonry of the old fort have been demolished by mining; 10,000 yards of the same have been removed, and transported to the exterior of the dyke surrounding the island, for its preservation; of which 300 running yards have been thus secured, and 400,000 bricks of the old work cleaned, preparatory to their being used in the construction of the new work.

To accomplish the removal of the material of the old fort, the most economical plan was to excavate the draining-ditches of the island to such a size as would suit them for navigation with lighters. The extent of this excavation is 6,700 cubic yards.

Fort Monroe, Hampton roads, Virginia.—A part of the funds placed at the disposal of the department, for this work, has been applied during the year to the objects specified in my last report. Although much has been done towards its completion, yet, owing to the great demand for labor, and the consequent difficulty in commanding it at Fort Monroe, though an advance of fifteen per cent. was offered, the outwork on the front of attack is not in a state as far advanced as it was hoped it would be.

Fort Calhoun, Hampton roads, Virginia.—By a reference to my last annual report, it will be perceived that it has for some time been a leading object at this work to compress the substratum, by the accumulation of materials upon it, to a state which will produce an equilibrium when it shall be required to sustain the weight of the walls, and the armament of the fort. Twelve thousand five hundred tons of stone have been added to the mole, and eleven thousand eight hundred tons of building stone deposited on and near the walls during the year.

Fort Macon, Beaufort, North Carolina.—This work will be completed and ready for inspection by the middle of the present month. The works for the preservation of its site have been prosecuted with considerable advantage, and give promise that they will accomplish the desirable object for which they were begun.

Fort Caswell, Oak island, North Carolina.—As was anticipated in my last report, this fort will be completed and may be garrisoned before the end of this year.

Fortifications in Charleston harbor, South Carolina.—Castle Pinckney and Fort Moultrie have been much improved as regards their ability for defence, and the latter thoroughly repaired. Works to arrest the encroachments of the water, on the site of Fort Moultrie, have been commenced; but sufficient time has not yet elapsed to justify the expression of any opinion as to their ultimate effect. About 16,500 tons of stone have been added to the mole to be occupied as a foundation to Fort Sumter, and the necessary preparation made to commence the construction of this work as soon as the mole shall be finished.

Fort Pulaski, Cockspur island, Georgia.—About two months at the commencement of the last working season, at this work, were lost in consequence of the absence of the superintending engineer, who was withdrawn from his command to meet a pressing demand elsewhere. The work was prosecuted, however, with great efficiency during the remainder of the season, and the progress has been such as to give satisfaction. The means have been applied principally to meet the difficulties encountered in the foundations.

Fort Marion, St. Augustine, Florida.—The funds appropriated at the last session of Congress for this fort have been applied, so far as it was deemed necessary for such a work, and operations have, for some time, been directed to the repairing of the sea-wall connected with it, with a hope of accomplishing the object of the law on the subject, by the middle of January or February.

Fort Pickens, Pensacola harbor, Florida.—The condition of this work is in a high degree satisfactory. The masonry, with the exception of a very small portion, is completed, and the entire work will, in probability, be finished by the end of March next.

Fort at Foster's bank, Pensacola harbor, Florida.—It was hoped, in the early part of the year, that the nature of the service would be such as to permit a convention of the board of engineers to revise, among others, the project for this work, and to fix its precise locality. This hope was, however, disappointed, and the funds have in part been, and the balance will be, applied to the collection of materials, and to making such preparations as will enable the constructing engineer to commence the

work under the next appropriation to advantage, as soon as the plans shall be matured.

Fort Morgan, Mobile point, Alabama—This work will be completed and ready for inspection by the end of December next.

Fort Livingston, Grande Terre, Louisiana.—At the time of making the appropriation for this work, the land on which it was to be located was private property. Much time has, unavoidably, been consumed in effecting a purchase. The department has been assured, however, that the protracted negotiation with the owner would soon be brought to a satisfactory termination, when the purchase and collection of materials will be made preparatory to commencing the work with the next appropriation.

Contingencies of fortifications.—A considerable portion of the appropriation under this head has been applied, during the year, to the repairs of Fort Jackson, Battery Bienvenu, Tower Dupre, and Fort Wood, Louisiana, and Fort Washington, Maryland.

INTERNAL IMPROVEMENTS.

Chicago harbor, Illinois—It being impossible to command the services of an engineer officer at this place, the works were given in charge to the commanding officer at Fort Dearborn. Owing to the position of Chicago, considerable difficulty was experienced in the early part of the season in procuring suitable materials and workmen to commence, as almost every thing, except timber and stone, had to be drawn from Buffalo. The first proposals received on the invitation of the commanding officer through the public prints were rejected because of their exorbitant character. Proposals were again invited, and finally contracts made for the supply of a small quantity of stone and timber, more with the view to ascertain the resources of the country, where every thing is new, and to create a competition, than with a hope of doing much in the way of construction during the past season. But little has been done therefore, further than to collect some materials and workmen, and to construct a small portion of one of the piers. A commencement in a position like this is, however, of great value, and hopes are entertained of being able to prosecute operations with advantage during the next working season.

La Plaisance bay, Michigan.—Eight hundred and forty feet of new pier work were sunk at this place within the year; piles were driven nearly the whole length of the pier, and will all be driven and secured by caps this fall. Considerable stone has been deposited in the pier, and, as far as the appropriation extended, the work has been prosecuted satisfactorily.

Oswego harbor, Sodus bay, Genesee river, Black Rock harbor, Buffalo harbor, and Dunkirk harbor, State of New York; Presqu' Isle harbor, State of Pennsylvania; Conneaut creek, Ashtabula creek, Cunningham creek, Grand river, Cleaveland harbor, Black river, and Huron river, State of Ohio.—For the condition and progress made on these works up to the 30th September last, I beg leave to refer you to the annexed report of their general superintendents, marked D. From these it will be perceived that although the operations at them continue to be attended with success, still much remains to be done before they can be completed in a solid and permanent manner; and as the expenditures on each already exceed the original estimated cost, and the amount required to place them in that condition is very great, it was thought advisable by the department that the subject should be brought fully to the consideration of Congress. With this view, a thorough inspection, to be made by a skilful and experienced engineer, was ordered during the last summer. His report on the subject, marked E, hereto annexed, is accordingly respectfully submitted. The estimates presented for these works are predicated on the recommendation of that officer, and that of the local agents.

Kennebunk river, Maine.—The means provided for the works at the mouth of this river have been faithfully applied; the Hardin pier, so called, having been thoroughly repaired, with the exception, perhaps, of a small quantity of stone that may yet be required for the greater security of the work, which has been considerably extended, and which is much exposed to ice and drift wood.

Some additional work will be required to complete the improvement on the east side of the channel. It is deemed necessary to construct a pier of considerable length, extending from what is called the outer pier to the bar. The piers heretofore erected at this place are of wooden crib work, filled in with stone; and it has been observed that those which are up the river some distance are in a good state of preservation, while those lower down have been much injured by worms: some, indeed, have been completely destroyed in the course of eight or ten years after their construction. For this reason the estimate for the additional pier alluded to contemplates the use of stone entirely.

Berwick branch of the Piscataqua.—The improvement in this river at Quamplegan rapids has been completed. There is now an unobstructed passage over the rapids, of nearly six feet at mean high water.

Merrimack river, Massachusetts.—Some additions have been made within the year to the breakwater in course of construction, to improve the navigation of the river at Newburyport. The work is represented as being in good condition.

It is thought that the erection of a pier, to extend from Badger's rocks to Salisbury head, would greatly improve the navigation of the river; an estimate for which is accordingly submitted, and recommended for favorable consideration.

Deer island, Boston harbor.—The works for the preservation of this island have been prosecuted with much success, and it is expected that the whole of the masonry will be completed by the middle of this month. Four thousand tons of rough stone have been placed in the breakwater in front of the sea-wall during the year: two thousand tons more will be added during the present season, leaving only four thousand tons to complete that work and the connecting breakwater between the principal walls.

Plymouth beach, Massachusetts.—The operations at this place have been of the same character as those of the previous year. They have been directed to the extension (about 510 feet) of the stone wall to the west of the breakwater, and to repairing the breach by planting grass. The grass is represented as doing well, and the condition of the beach, generally, as being good.

Provincetown, Massachusetts.—About 220 acres of ground were planted with beach grass during the last spring, besides repairing many places previously planted, but which had been injured by the encroachments of the sand.

Hyannis harbor, Massachusetts.—The breakwater at this place has been much improved and considerably increased since my last report. The additional length constructed within the year is about 230 feet, giving a length of 820 feet completed. Its entire length, when finished, will be 1,320 feet, leaving, therefore, 500 feet yet to be constructed.

Mill river, Connecticut.—The additions to this work have been completed, and are represented as having accomplished the objects for which they were made.

Harbors of New Castle, Marcus Hook, Chester, and Port Penn, Delaware river.—The operations at the harbors on the Delaware river have been confined to the harbor of Marcus Hook, from which, by means of a steam dredg-

ing machine, 15,369 cubic yards of earth have been excavated and removed, forming a safe and secure retreat for about twenty sail of vessels. Some progress has been made in repairing one of the piers forming this harbor, using stone for all that part above the low-water mark.

To persevere upon the plan heretofore pursued is not deemed advantageous towards effecting the desired object; any results accomplished by it would not, it is believed, be attended by a permanent good. The estimate presented for the service of the year is however to continue the operations upon the present plan.

Ocracock inlet, North Carolina.—Though much retarded on account of tempestuous weather and the breaking of machinery, the operations at this place have been attended with considerable success, and with the most flattering effects upon the navigation through the inlet. A dredging machine has been kept at work when the weather would permit in Wallace's channel, from which about 34,000 cubic yards of earth have been removed within the year. A navigation of eight feet has been obtained through this channel.

Cape Fear river.—The jettee near Barnhard's creek, on the eastern side of the river, and the one near Old Town, on the western side, have been completed: that near Barnhard's creek continued to wash up during the last winter; and nearly the whole of the labor applied this year has been for the purpose of keeping these two jettees in repair. Notwithstanding the difficulties that have heretofore attended the construction of jettees, it is confidently anticipated that a navigation of fourteen feet water will be obtained when they are permanently secured.

Savannah river, Georgia.—An officer has been engaged during the year in making an examination of this river between its mouth and Savannah, with a view to obtain the data necessary to enable the superintending engineer to apply the funds appropriated therefor to the best advantage. This examination is nearly brought to a close, when active operations will be commenced for the removal of obstructions, suitable preparations in the way of boats and machinery being in the course of preparation for the purpose.

Inland navigation between the St. John's and St. Mary's.—The improvement contemplated here requires the agency of a steam dredging machine. To have purchased one from the small appropriation placed at the disposal of the department, would have so far exhausted it as to have left little or nothing for the prosecution of the work. Under these circumstances, it was thought advisable to do nothing till the improvement of the Savannah river, and that at the St. Mark's or Appalachicola, would admit of the boats employed at these places being transferred to the St. John's and St. Mary's. Nothing, therefore, has yet been done.

St. Mark's harbor and river, Florida.—A canal has been opened through the natural bridge on the St. Mark's. Owing, however, to the unexpected appearance of rock at this place, much of the money which it was hoped might be applied to the improvement of the river above, has been expended on it, and will render an additional appropriation necessary. The object of this appropriation will be to open the river to the only convenient place of landing for the upper country, and to deepen the channel already made, and that over the outer bar, at the entrance into the river, for the admission of large vessels drawing fifteen feet.

Ochlochney river, Florida.—The appropriation for the improvement of this river has been applied to the removal of the logs and trees which obstruct its navigation from its channel. The whole will be expended by the middle of the present month.

Appalachicola river and harbor —Although the improvements contemplated at this place have been prosecuted under many disadvantages, owing to the difficulty of procuring laborers during the past season, yet, what has been done is of a character altogether satisfactory, and seems to promise a success beyond the most favorable expectations. The part of the channel that was deepened to ten feet has been increased by the action of the current to from twelve to fourteen.

Escambia river, Florida.—This river was surveyed in July last, to ascertain the nature of the required improvement, and to obtain an estimate of its probable cost. In the following month the work was let out on contract, and will be completed this fall, leaving a portion of the funds unexpended.

Harbor of Mobile, Alabama.—The progress here has been satisfactory. The breadth of the bar at Choctaw pass, or length of channel to be cut through it, is 620 yards; 580 were executed with a width of 100 feet, on the 30th September; and the remaining 90 yards are, no doubt, finished ere this. Operations will be continued till the means are exhausted in increasing the width of the channel.

Pascagoula river, Mississippi. Owing to a difficulty with the contractor, the operations at this place have not been of a satisfactory character. The work was not resumed till the 17th June last, since which time nothing has been done further than to make some repairs of boats, machinery, &c. It was expected that the dredging machine would be in operation by the 1st instant.

Red river, Louisiana.—The removal of the great raft from the bed of this river has been shown, by the operations of Captain H. M. Shreve, during the last summer, to be perfectly practicable. He was at work at it till the means at the disposal of the department were exhausted; and his success leaves the most ample testimony of his great zeal and ability. Captain Shreve's report on this subject is so interesting that I deem it proper to lay it before you entire. It is herewith appended, marked F; and I would earnestly recommend for favorable consideration the estimate submitted with it, for the prosecution, to completion, of this great work.

Arkansas river, Arkansas Territory.—The examination of this river was made by an officer of the engineers early in the spring, and the boats, machinery, &c. under the personal direction of Captain Shreve, commenced the removal of obstructions to its navigation in the early part of August last. At the latest advices, not much had been done, however, owing to the unfavorable state of the water; but this winter, while operations will be suspended on the Ohio by reason of the ice, it is intended to concentrate a force on the Arkansas, and to prosecute the work to the extent of the available means.

The report of the officer who made the examination of this river above alluded to, being of an interesting character, is hereunto annexed, marked I.

Mississippi and Ohio rivers.—For the progress made in the improvement of these rivers, I beg leave to refer you to the accompanying report from the superintendent, H. M. Shreve, marked G

Cumberland river, Tennessee.—Operations were commenced on this river 16th October, and continued till the 7th December, 1833. Owing to the unusual high state of the water little was done towards the improvement of its navigation, other than the cutting away of the timber overhanging its banks in the island chutes and deep bends between Nashville and Harpeth island, and making the necessary preparations for prosecuting the work as soon as the water and season would permit. The work was resumed on the 1st of January last, since which time the operations have been directed with much success to improving the river at Harpeth shoals and their vicinity, to the cutting away of the hanging timber from the banks, and to the removal of logs, &c. from the sand bars.

Road from Memphis, on the Mississippi, to William

Strong's house, on the St. Francis.—An examination and survey have been made of the country between the two points above named, with the view to the location of this road; but the reports and drawing thereon not having been received, nothing has been done by this department. As soon as the reports shall be received, the location and construction of the road will be commenced without loss of time.

Cumberland road in Ohio.—The affairs of this part of the national road have been manged in a manner highly satisfactory. The operations on it, though much influenced by the prevalence of the cholera in the section of the country through which it passes, have been prosecuted with a zeal and ability highly creditable to the officer charged with their direction. The bridges between Zanesville and the 21st mile west from thence, inclusive, have been repointed and put in complete order; the culverts which had given way in consequence of bad materials and workmanship, have been taken down and rebuilt; the masonry between Hebron and Columbus, a distance of 27 miles, has been completed, with the exception of two small bridges, one on the 51st and the other on the 53d mile, declared defective in workmanship, and not accepted from the contractors. The masonry west of Columbus remains nearly in the state described in my last annual report, the existence of the cholera having prevented any improvement in it. Preparations have been made to construct the abutments for the bridges over the canal at Hebron, and the Scioto at Columbus; those for the former bridge will most likely be completed this fall. The wooden superstructure over the canal feeder on the 32d mile, Blacklick creek on the 43d, Big walnut on the 46 h, and Alum creek on the 50th mile west of Zanesville, have all been finished. The superstructure over the canal at Hebron will probably be completed this year, and the timber for that over the Scioto will be got out this winter. The superstructure over Little Darby, which was damaged in April last by a tornado, has been repaired and strengthened by additional bracing. The first stratum of metal is in course of preparation to cover the road between the 22d and 32d miles, inclusive, west of Zanesville. Measures were taken to have this metal prepared and put upon the road by the 1st of August last, but the efforts of the contractors were defeated by the prevalence of disease, and the increased demand for labor. The second stratum of metal was to have been put on by the 1st of last month, but the distance of the stone to constitute this layer, added to the causes already adverted to, rendered this impossible. The third and last stratum of metal is undergoing preparation to be placed upon the road as soon as broken, between Zanesville and the 21st mile west from thence, inclusive. The time limited by the contracts for completing this part of the road was the 1st of August last, but some of the causes which operated against the advancement of the road in the neighborhood of Hebron, have operated to its prejudice in this. It is confidently anticipated, however, that these twenty-one miles will be finished within the present year, when they will be turned over to the State. The grade has been completed by this time as far as Columbus, by which there is a saving of five hours in the passage of the mail between Zanesville and Columbus, which commenced running on this road in July last. The clearing and grubbing will most likely be completed as far as Springfield, 43 miles west of Columbus, by the end of the present month.

Cumberland road in Indiana.—An officer of engineers is at present engaged in making an inspection of the road through this State, and his report will be laid before you as soon as received, the report of the superintendent of the eastern division being of a character so general as to render it impossible to get at the exact condition of the road. The western division, beginning at Indianapolis, will soon be in a travelling condition for a distance of thirty-three miles west. The grading, bridging, and culverts being finished by this time, excepting the bridges at White river on the first and Mill creek on the twenty-seventh mile, both of which will, most likely, be finished by the end of the year. The contracts for the present year on the western division are for such work as was deemed necessary to bring the road into immediate use as far as the western boundary of the State. These contracts, therefore, embrace the entire distance from the thirty-fourth to the seventy-first mile, inclusive; and the works provided for by them have progressed in a manner altogether satisfactory to the superintendent. When these contracts shall be completed, carriages will be able to travel, with but trifling interruption, from Indianapolis to the eastern boundary of Illinois.

Cumberland road in Illinois.—A belief was induced in the early part of the year that the affairs of this part of the road were conducted in a manner not likely to be productive of results desired by the Government; and, therefore, an officer of engineers was instructed to make an inspection of the road and its concerns, and to report the result for subsequent action. Before the inspection was made, however, a direct charge was preferred, from a source that seemed to require consideration, impeaching the moral character of the superintendent in a particular that could not well be true without being accompanied by dereliction of official duty. It was, therefore, deemed necessary to suspend the superintendent till the facts in the case could be ascertained. An investigation was had of the affairs of this road, and it is shown that a state of things existed which rendered any progress in the way of extension, during the present year, totally inconsistent with a proper regard for the public interest; and it is not perceived how any thing further can be done till the blunders (but too palpable on almost every part of the road) shall have been repaired, and a system established which will prevent their recurrence, and restore a wholesome state of things on this important national work.

Cumberland road east of the Ohio.—The repairs of this part of the national avenue have progressed well. *In Maryland*, three thousand two hundred and thirty seven rods have received the entire covering of stone, and are completed; two thousand eight hundred and thirty-four rods have received a covering of nine, sixteen hundred and ninety-seven of six, and twenty-seven of three inches of metal. Three thousand nine hundred and eleven rods have been graded and are ready to receive the covering, and for which there are, on the line of the road, six thousand one hundred and thirty-eight perches of broken or prepared, and upwards of seven thousand perches of rough stone. *In Pennsylvania*, six thousand nine hundred and ninety-three rods of the road have been completed; ten thousand and ten rods have received a covering of nine inches, six hundred and ninety-two of six, and three thousand five hundred and ninety five of four and a half inches of metal. Four hundred and ninety-four rods of the road are graded and ready to receive its cover; and there are, near the road side, seven thousand six hundred and eleven perches of prepared, and two thousand two hundred and thirty-six perches of rough stone. *In Virginia*, eight hundred and twelve rods have been covered with four and a half inches of metal, and one hundred and seventy-six with three inches. Eighteen hundred and fifty-five rods of the road have been graded, and are ready for receiving the metal; and for which there are, on the line of the road, eight thousand three hundred and fifty perches of prepared, and twelve thousand six hundred and forty-five perches of rough stone. Besides this, there is a considerable quantity of stone out at the different quarries, which will be hauled to the road and prepared during the winter. Five thousand four hundred and fifty-three cubic yards of masonry have been constructed on

different parts of the entire road. The new location to turn Wills's mountain has been opened, and considerable progress made in the bridge to cross Wills's creek.

An examination was made of the Cumberland road east of the Ohio in 1827, for repairing it upon the plan of its original construction, when it appeared that 75½ miles of the old pavement were in good order, and required three inches of broken stone for a covering to restore it to its primitive state—estimated to cost $3 75 per rod; that 32⅞ miles required four and a half inches of stone, and 21½ miles required six inches of stone, broken to four ounces in weight, and that the masonry might cost $11,000; and the whole road, thus repaired, would cost $230,274.

In February of 1826, it was estimated that the sum of $278,983 would be sufficient to repair the whole road upon the McAdam plan; and in May, 1827, (a period of sixteen months,) the superstratum or cover of reduced stone had been worn and washed away to an extent almost incredible, and proved that too great a reliance was placed upon the layer of large stone, as there were not so many of them of as good a quality as was first supposed. To have effected the same repair in 1827, as was contemplated in 1826, would have required an additional sum of $50,000—making $328,983 necessary to repair the road, upon the best information to be obtained at that period. The utter destruction of the road was foreseen at that time unless measures were taken to repair it thoroughly, it being then in a "most wretched" condition.

In July, 1832, it was determined to repair the road effectually, from end to end, and cede it to the respective States through which it passed; after which, the repairs were to be met by the tolls collected from the travelling on it.

The system adopted was that extensively used in England, and known by the name of its inventor, McAdam. The condition of the road at this period made very extensive repairs necessary, commencing from the grade, there being neither side drains, ditches, nor culverts for draining the water, presenting no better condition for the basis of repairs on the McAdam system than what is called a "rough grade," with the large bridges.

Rather than make a partial repair by distributing the sum appropriated over the whole line of 132 miles, the parts through the mountains being in the worst condition, and, from the face of the country, most difficult to travel, were first commenced. The supposition of finding good stone in the bed of the road, wherewith to make "McAdamized metal," proved fallacious: not a perch was found through the whole mountain district, the bed being composed of soft sand-stone. This, when broken to four-ounce pieces, and used for a covering, is, in the course of three months, reduced to sand, and washed by the heavy rains from the road into the ditches and drains, making it worse than useless to depend upon any of the varieties of sand-stone. Under these circumstances, but one course was left, and that was to procure the only suitable material the country produced—*lime-stone.* The natural position of this stone is under the sand-stone, and found only in the lowest valleys—often in the beds of creeks, covered with several feet of earth, and distant from the line of the road. Through the mountains it is found in few positions. The expense of repairing the road with a good material, and the only one of this character found in the country, is far greater than anticipated before these facts were known. Another heavy item in the expense of repair is the condition of the masonry; this having been exposed for a long time to the weather, without coping to throw off the rain and snow, is now in a dilapidated condition, requiring a considerable portion to be renewed.

Under these circumstances, the cost of putting the road in such a condition as will justify toll being exacted, is so far beyond that at first anticipated, as to make it proper to draw the particular attention of Congress to the estimate for the year, based upon the facts herein stated. It will be perceived that the sum asked for the service of the year is to finish all that part lying between Cumberland and the Monongahela river, and commence that part situated between this river and the Virginia line, and to finish the sixteen miles in Virginia; making the sum required to repair the whole road, on the McAdam plan, not less than $645,000, of which the resources of that region of country will advantageously admit of $300,000 being expended during the year.

Should it, however, be the determination of Congress to make a partial repair of this great national line of communication between the Western waters and the Atlantic, the estimates would be materially varied. Leaving the masonry in its present ruined state, constructing no more culverts to throw the water under the road, abandoning the McAdam plan of repair, and merely opening the ditches and drains, and to restore the grade with earth, the cost would be, for the part between Brownsville and West Alexandria, upon which, as yet, nothing has been done, 42 miles, - - $50,000

For the 16 miles in Virginia, (finishing the masonry on Wheeling hill) - - -	20,000
For the first 10 miles in Maryland, - -	25,000
For the remaining 22 miles in Maryland, -	22,000
For the part through Pennsylvania, heretofore partially McAdamized, 41 miles, - -	30,000
	$147,000

This, however, effects nothing more than making a clay road, by no means suited to the immense travel passing the mountains by this route, and, when finished, soon destroyed by the rains which would wash the earth from the face of the road into the valleys.

To use the stone found on the road side is, as before remarked, worse than useless; the expense of applying it being very great, and, when applied, soon ground to sand and washed away. Hence, it will be far better to apply the sum that may be appropriated for a partial repair, to form a clay road over the old bed, than attempt to apply sand-stone that is no better, costs more, and is as soon washed away.

The road repaired in this manner will not justify tolls being exacted, as, in the fall and spring of the first year, it will be next to impassable, and good only for the first two or three summers. Another mode of repair might be adopted, viz. that of restoring the grade by breaking up the sand-stone to twelve-ounce pieces, and covering it with earth. The result of this would be, after a year or two, when the earth had washed from the surface, an irregular mass of rough stone, much like the road in its present condition. The cost of this might be $200,000.

A more particular estimate for these partial repairs is not submitted, as they cannot be recommended, and the necessary information has not been collected to prepare one.

Road from Columbus, Georgia, to Line creek, Alabama.—This road has been located after a careful examination of the country through which it passes; and its construction will be prosecuted with as much despatch as circumstances will permit. The greater part of the road is in a district of country entirely uninhabited. This will render it a matter of some difficulty to procure labor and supplies; but the department has the assurances of the agent that every effort will be made to complete the road as speedily as possible.

Road from Detroit to Chicago, Michigan.—The contracts for the construction of this road, entered into last year, extended as far as the 132d mile west from Detroit. The contractors were actively engaged on the 30th September, and hopes were entertained that they would be able to complete their engagements by the

30th October. Additional contracts were made in June last for different parts of the road, as far as the 157th mile. Upon examination, it was found that between the 150th and 157th mile, the country is extremely broken, and the travelling not only difficult but dangerous; it was, therefore, deemed advisable to contract for this part of the road this year, and to postpone until the next, the portion between the 132d mile, where the contracts of last year terminated, and the commencement of the broken district. This has been done.

Road from Detroit to Saginaw.—The contracts entered into last year for the construction of the Saginaw road will have been complied with, it is believed, before the termination of the present fall. Twelve additional contracts, for making eight miles of this road, ending with the first half of the 65th mile, were made last June. They provide for the completion of that part of the road by the 1st of September next, and no doubts are entertained of the contractors being able to comply with their engagements on this and the Chicago road.

Road from La Plaisance bay to meet the Chicago road from Detroit.—Twenty-seven miles of this road have been put under contract; four miles were completed on the 30th September; eight were expected to be finished by the 30th ultimo. The contractors are laboring on twelve more, and hopes are entertained that all will be done by the 31st January next.

Road from Detroit to the mouth of Grand river.—On ten miles of this road, the first class of operations, consisting of clearing and grubbing, excepting on one mile, will be completed by the close of the season. The appropriation now asked for is intended for the continuation of the plan at present adopted.

Road from Detroit to Fort Gratiot.—This road was put under contract last season to its termination, and would have been completed before the close of this, had not some sections of it been under water for a great portion of the time, thereby preventing their being worked upon. It will, however, be made passable by the end of the year.

Northern boundary of Ohio.—The officer charged with collecting data preparatory to the adjustment of this line, has been engaged with an assistant in a reconnoissance to determine the stations and points where the more important instruments are to be used, and to ascertain more accurately the extent and nature of the duty required by the law creating this service. This was deemed necessary before ordering all the instruments; and accordingly, complete sets of observations were made for the determination of the latitude and longitude at and near the four principal points, viz. on Gull or Ship island, in Lake Erie; at the north point of Maumee bay or Bay point; the south bend of Lake Michigan; and near the same parallel on the Mississippi.

Military Academy.—This institution continues to prosper, and, for more particular information respecting it, I beg leave to call your attention to the report of the Board of Visiters, herewith, marked H. An appropriation was made at the last session of Congress for the erection of two buildings much needed at the academy. One is for a place of divine worship, the other for the exercise of the cadets, in the winter and in times of bad weather generally. On drawing up plans, it was found that they would exceed the amount appropriated; and it was, therefore, deemed proper to defer their erection till the facts could be submitted to Congress, and its further action in the matter be had. An estimate, exhibiting the difference of cost, will be submitted.

Board of Engineers.—The members of the Board of Engineers have been engaged in making inspections of the various works in the vicinity of their respective stations, in addition to the specific duties with which they are individually charged.

Office of the Chief Engineer.—Besides the current business of the office, the nature of which remains the same as heretofore, a number of the works under the department have received my personal attention. In the course of the year, I made, in accordance with the regulations, a tour of inspection, embracing the Cumberland road in the States of Maryland, Pennsylvania, Virginia, and Ohio; the harbor improvements on the south shores of Lakes Erie and Ontario; and the works of fortifications at Hampton roads, Pea Patch island, New York harbor, and Narragansett roads.

In conclusion, I would respectfully renew the suggestions offered in my previous reports, that the means of the department are entirely inadequate to meet the numerous calls upon it for officers. Permit me, therefore, to call your attention again to the subject of an increase of the present corps of engineers, agreeably to the plan heretofore recommended; it is deemed a measure of indispensable necessity for the public interest.

All of which is respectfully submitted.

C. GRATIOT,
Br. Gen. and Chief Engineer.

Hon. Lewis Cass,
Secretary of War.

Erie, (Pa.) *October* 18, 1833.

Sir: In compliance with the orders and regulations of the Engineer department, the following report, in relation to the public works of internal improvements on the south shore of Lake Erie, is most respectfully submitted.

Black Rock harbor, N. Y.—The money which has been applied to the works this season, has been principally in procuring stone for the mole on Bird island, and in repairing the traverse pier. No report has been made by the superintendent of the progress and condition of the works. I have been informed that a plan has been made out for enlarging or extending the works, and sent to Colonel Totten, the cost of which is estimated at $20,000. Information through that channel to the department may be expected.

Buffalo harbor, N. Y.—The public works for securing the harbor at Buffalo have the appearance of great strength and durability. The importance of this port may be learned from the collector of the customs. The schedule of shipping belonging to this port, and the amount of exports, will show the great amount of business transacted. The whole front wall of the mole on the south side of the harbor, together with the coping and flagging, are completed. The new light-house on the mole head is complete in every part. An estimate of funds required for 1834 accompanies this report.

Dunkirk harbor, N. Y.—This harbor is formed by two points projecting into the lake; the western pier extends into the lake 415 yards; for extending the pier 158 yards further, and constructing the eastern breakwater, an estimate accompanies this report. The works which have been already constructed stand well and in good condition; the piers are all filled in with stone, level with the top timbers, based upon solid rock, and planked. The pier has been extended this season 113 yards. This harbor has at its entrance 12 feet of water, and from 12 to 15 on the anchorage.

Presqu' Isle harbor, Pa.—The north breakwater of this harbor is now connected with the main land of the peninsula, and filled in with brush and stone; it has been extended this season 400 yards. The stone in the piers have settled about two feet on an average, the planks have been taken off, and the piers filled to a level with the top timbers, and replanked as far as the old ones would answer; the whole will be covered as soon as plank can be obtained. The depth of water has been increasing in the channel every year from the commencement of the

works; 12 feet of water may be carried the whole length of the channel to the entrance of the bay, and then 9½ feet to the borough pier, which is 1½ mile from the entrance. This harbor is capacious when compared with others on this lake, and very important to the country. It is the most suitable point for a naval station on the south shore of the lake. These works, as soon as practicable, should be placed on a permanent footing. In 1830 a breach was made through the south pier at its junction with the south breakwater; but as no serious injury has been felt, and the channel has continued good, it has remained in the same situation ever since. A deep basin has, however, been worn in the channel, and the standing work endangered by being undermined. Colonel Totten, of the engineer corps, recommends its being filled in without delay. The appropriation will be only sufficient to secure the other part of the works, leaving this until further appropriations are made. To strengthen these works, large quantities of stone and brush are required to be placed on each side of the piers and breakwater, the whole length, to prevent them from being undermined, and the sand from being driven through by the current and waves. An estimate is made out for this purpose, likewise for closing the breach at the junction of the south breakwater and pier, and filling in the deep basin worn by the current surrounding this breach. The breach at the head of the peninsula, (five miles from the entrance,) which was mentioned in my last annual report, has been thoroughly examined by Colonel Totten, and it is presumed that some plan will be recommended to prevent its increase.

Conneaut creek, Ohio.—These piers extend into the lake 415 yards. The depth of water in the channel at its shoalest place is eight and a half feet. The stone in the piers have settled very considerably, and must be filled in even with the top timbers. Some large stone are required around the head of the piers, and on the outside, mixed in with brush. An estimate of the expense accompanies this report. 202 yards of pier have been constructed since the 30th of September, 1832. A simple dredging machine has been built this season for deepening the channel, which is now in operation, and doing well, removing from six to eight cords per day of hard clay pan.

Ashtabula, Ohio.—These piers extend into the lake 428 yards; if they were extended 150 feet further, and spread so as to give additional width at the entrance, greater safety would be given to vessels entering the harbor, especially when the wind and waves are high. A rock lies across this channel, about 200 yards from the head of the pier, extending 200 feet in length, six and a half feet below the surface of the water, and the whole width of the channel. The machinery for cutting up this rock was in operation when last there, and worked to good advantage. The superintendent informs me the chisel has again failed, but he is in daily expectation of a very substantial one from Pittsburg. I am fully in the belief, notwithstanding the bad success this season, that the plan is a good one, and that the rock will be removed at a less expense than on any other plan suggested. An estimate accompanies this report for extending the piers, and for filling in where the stone have settled.

Cunningham's creek, Ohio.—This is an open pier, extending into the lake, and bridged. The appropriation of $500 last winter appears insufficient to complete the work or pier head: more money will be required. The pier head was constructed on a larger scale than the plan laid down, and more stone and timber were required than was called for by the former statement. An estimate for completing this pier and enlarging the works accompanies this report.

Grand river, Ohio.—These piers extend into the lake 480 yards, and will admit vessels drawing 12 feet of water, a greater depth than could have been wished, as greater quantities of stone are required to fill in the piers, and to secure them in their place against the effect of the current. Large quantities of stone and brush are required to be placed on each side of the piers the whole length, to give them additional strength. Estimates are therefore made out, and accompany this report.

Cleaveland, Ohio.—The piers at this harbor extend into the lake 525 yards, giving a depth of water in the channel of eleven and a half feet at its shoalest place. This harbor is one of great importance; it must, from its local situation, be the great centre for business on the lake shore for the State of Ohio. The Erie and Ohio canal enters this harbor, extending 330 miles to Portsmouth, at the mouth of the Scioto river. The quantity of business transacted at this place is shown by the collector of the customs in a document herewith transmitted. Large quantities of stone and brush are required to secure and strengthen these works. An estimate for that purpose is made out, and accompanies this report.

Black river, Ohio.—These piers are extended into the lake 417 yards, with an opening of 200 feet; the shoalest place in the channel is seven and a half feet. The works stand well; the stone in the piers have settled nearly two feet on an average; a quantity of stone is required to fill them even with the top timbers. A deposite of stone and brush on the outside of the piers would give additional strength to the works, and prevent the sand, which is constantly accumulating, from being driven through the piers. This being effected, a brush would be formed alongside the piers, and thereby a strong barrier erected for the preservation of the works. The western pier has been extended this season 30 yards; filled in with stone and planked, and 150 yards of the eastern pier, which was in an unfinished state, have been completed. The eastern pier is to be extended 30 yards further, agreeably to the original plan. A dredging machine has been constructed for deepening the channel, by removing the hard clay pan at its bottom, and is now in operation, and works to good advantage.

Huron harbor, Ohio.—The depth of water in this harbor at its shoalest place is eight feet; the works are in good condition; some considerable stone will be required for filling the piers where they have settled even with the top timbers, and quantities of stone and brush on each side of the piers to give strength to the work, and prevent the sand from being driven through the piers into the channel. The entrance to this harbor is only 140 feet: this is too narrow for safety. If these piers were extended into the lake 200 feet further, on an angle that would give an additional width of 100 feet, the entrance into the harbor would be more safe, and damage less frequent. An estimate for repairing and extending these works accompanies this report.

It gives me much pleasure to communicate to the department the result of the experiments made in constructing harbors on the south shore of Lake Erie. The extending of parallel piers from the mouths of rivers across the beach and sand bars into the lake, has exposed the sand to the action of the current, by the force of which the bars have been removed, and in no instance has it failed, unless interrupted by rock and clay pan, of giving sufficient depth of water for the largest class of vessels navigating the lake, thereby rendering it easy to obtain a safe harbor at any of the given points. It was problematical at the commencement of these works what would be the result of the first operation, but experience has shown that, could the effects have been foreseen, the same plan would have been pursued; of course, no money has been lost in experiments. These works will be kept in repair, and strengthened by enlarging the base on each side the piers with brush and stone, and obtain in a few years a stable foundation. To secure this most important

end, they will require constant watchfulness and annual appropriations, but small when compared with national advantages. Beacon light-houses to all the harbors on the south shore of Lake Erie are required for the safety of navigation. Estimates have been heretofore made out, and transmitted to the department.

Very respectfully,

Your most obedient and humble servant,

JOSEPH D. SELDEN, *Agent.*

Brig. Gen. C. Gratiot, *Chief Engineer.*

Office of Improvement of Navigation, Genesee river and Big Sodus Bay.

Geneva, N. Y. *October* 6, 1833.

Annnual report of the state of the works constructing, under the law of Congress, for the improvement of the navigation of Genesee river, and for removing obstructions at the entrace of Big Sodus bay, on Lake Ontario, New York, for the year ending the 30th September, 1833.

The materials used in the construction of these works, to wit, timber, iron, and stone, and the form of the piers, to wit, a succession of cribs united, being the same as those used and applied in previous years, they need not be again described in this place, save a reference to the plans.

At Genesee river the quantity of work accomplishing and to be finished this year, (1833,) amounts to 28 piers or cribs, each 30 feet in length and 20 feet wide, sunk and extending from the existing range of piers into the lake at the mouth of the river, in a depth of 12 feet water, the extreme crib being 30 feet square, the average height of these cribs from the bed of the lake to the top of the piers being 17 feet. The whole length of the piers, including that to be finished this year, amounts to 4,712 feet.

At Big Sodus bay, there have been constructed and sunk, during the same time this year, 27 similar cribs or piers, of the dimensions of 30 feet by 18, in 12 and 13 feet water, the cribs averaging a depth of 18 feet from the bed of the lake to the top of the pier. The whole length of the piers, including that to be finished this year, amounts to 5,378 feet.

The works at both harbors standing firmly, and answering the purposes for which they are erecting. So far as the nature of the respective beds of the lake have effected; that at Genesee river being moveable sand, is cleared away from 7 to 12 feet, the depth of 14 feet being the object required; and that at Sodus bay, being sand and gravel and pebbles, has been washed off from 7 to 9 feet, the depth of 14 being also the object here required.

The expenditures for materials and workmanship from the appropriation of $15,000 for each harbor, are exhibited in the accounts and vouchers in the Engineer department.

It was my expectation last year that it would not be necessary to extend the pier work of these improvements any further into Lake Ontario than will be finished in the present year. Some changes in the form of the shoals near the piers, and a movement of sand towards their extremities, make it necessary to extend the piers somewhat further, to wit, at Genesee river, the movement of the shoal near the west pier has occasionally deposited at the end of the pier, but the deposite has not been permanent. To insure safety in this matter, an addition of 200 yards of pier will insure a fourteen feet water navigation, which will involve an expense of $15,000. Such have been the advantages to the navigation by these piers, that it is the general wish to make the channel safe and easy for any depth not exceeding 16 feet of water, which would involve an expense of $7,500, in addition, as the estimates exhibit.

At Big Sodus bay, the movement of sand and gravel on the shoal between the west T, and the shore adjacent to the light-house, make it desirable to extend the west T about 100 yards, and the east T about fifty yards, which will involve an expense of $8,000, as the estimates exhibit.

By the accompanying sketch, it will be seen that Point Charles is connected with the main land by a narrow isthmus. From causes that have most probably originated in the reaction of the waves about the Sodus piers, the northeastern projection of Point Charles, and the shore continued therefrom to the isthmus, have been much abraded. Before the piers were commenced, the rolling of the sea expended its force upon the Long Point beach within the bay. Since the works have been constructed, the reacting waves from the sides of the piers have commingled themselves with the currents that set east or west, as the winds have influenced them, and expended some of their force upon Light-house point and Point Charles, the latter being affected, because the prevalent winds are from the west. Light-house point has been protected by a pier, which, although too small, evidently shows its good effects in protecting the shore there. I propose a similar protection at Point Charles; and as this promontory lies immediately adjacent to the low part of the narrow isthmus, I propose that a range of small piers, 6 feet by 4, be made to cover the northeast point, and extend to the isthmus, and thus effectually protect that shore, and prevent a breach through to the bay, which is now seriously threatened, and which, if permitted, might change the channel from the lake into the bay. By an estimate, it will be seen that that work would cost $8,000.

Conformably to what has been stated in previous annual reports upon the removal of obstructions at Sodus bay, I now proceed again to refer to that subject. The bed of the lake between the piers at the entrance of this harbor is sand, gravel, and pebbles, forming just below the surface a hard pan, a connexion aided in its formation by a deposite of iron, and is of a thickness between one and three feet; through this pan I have been in the habit of driving piles, consequently the pan can be broken through, and enough of it turned over and taken away to secure a channel for a navigation of fourteen feet of water where the least depth is now nine feet. The machinery which I recommend to apply to this work, is to be driven by a twenty-horse-power steam engine, acting upon an iron plough running in an iron frame attached to iron axletrees and iron wheels, to be moved over the bed of the channel by gauging the plough to the requisite depth; and after running out one furrow, and dredging out the excavation, to regauge the plough to the additional depth for another furrow, until the channel is opened to five feet below the present surface, on a line of 500 yards in length, and 20 yards wide, which would leave banks on either side of the channel 80 yards wide, a pan sloping up to the base of the piers.

The accompanying plan will show the construction of the plough, and the estimates will show that the expense of this work will be 14,000 dollars for the first year, and 6,000 dollars for the second year. In my opinion, the work can be done in two years.

When these harbors were commenced, they were deemed experiments. To produce a conviction of their practicability and usefulness, the cheapest and most temporary materials have been applied; the result has been thus far satisfactory. The material chiefly used at Genesee river and Sodus bay has been timber secured by iron bolts and oak treenails, and ballasted with stone. This work below the surface of the water will endure a great length of time; but that which is above water, and alternately wet and dry, must of necessity decay in a few years. To render, therefore, these works permanent, it

will be necessary to apply a structure of stone above low water.

In observing the action of the waves upon structures intended to impede their motion, I do not think that slopes form the best breakwaters, because they serve to lead the surge. Perpendicular walls aid better to resist the action of waves than slopes, for in such cases I have noticed that the violence of the coming surge is in part expended upon the retreating volume of water that is below the surface adjacent to the upright wall of timber, so that the force of the wave is at least divided between the "undertow" and the face of the structure.

I would therefore recommend that the works at Genesee river and Sodus bay be permanently secured by perpendicular walls of stone constructed upon the present piers, commencing below the lowest stage of water, and extending four feet above the surface of high water; using stones of large dimensions for the faces exposed to the waves, clamping them together with copper; using small stone for the inside faces, and filling the space between the faces with fragment stones, and covering the whole with large stone. The quarries on Genesee river and near Sodus bay can afford an abundance of materials. I subjoin an estimate for such a work at both harbors.

1,000 cords of building stone, in lengths of not less than four feet, at $7 -	$7,000
800 cords, not less than 2 feet, at $5, -	4,000
3,000 cords of fragment stone, at $3, -	9,000
20,000 pounds copper bolts, at 25 cents, -	5,000
Workmanship and contingencies, - -	13,500
For Big Sodus bay, - -	$38,500
The greater facility of procuring stone upon Genesee river would diminish the item of stone $4,000, so that the expense for Genesee river would be - - - -	$34,500

Respectfully submitted.

J. G. SWIFT, *Agent.*

Gen. Chas. Gratiot, *Chief Eng. Washington, D. C.*

Oswego, *October* 9, 1833.

Gen. C. Gratiot, *Chief Engineer, Washington, D. C.:*

Sir: I have the honor to forward herewith my monthly and quarterly returns due at this time, and, also, my annual report of the progress of operations since the 1st of January, 1833; prior to which time I have no data left me by the former agents on which to found a narrative.

The operations, since I took charge of the work, are comprised in the following particulars, viz.

1st. Repairing the damages sustained by the west pier last winter. In doing this, I followed the plan suggested in Captain Smith's letter of the 15th April last, and referred to in mine of the 22d of April.

2d. Completing the counterfort to the east pier, (marked B in the accompanying sketch of the piers,) which was built up nearly to the water's edge last fall by Lieut. Tompkins.

3d. Building the counterfort, (marked A,) to support that part of the west pier which was injured last winter. This is completed now, with the exception of planking. I have purposely delayed completing it, in order to give the man who furnishes the stone for filling it (who is also the contractor for supplying stone for the mole) an opportunity of furnishing them as they come from the quarry with the large stone, by which means I get them cheaper than I could if the quarry had been worked on purpose for them, but principally for the purpose of letting it get perfectly and firmly settled before building the part above water.

4th. Prosecuting the construction of the stone mole for the protection of the west pier. This is under contract to Mr. H. I. Cary, of this place, to the extent of the appropriation, to be completed this fall. The season has been boisterous to an unprecedented extent. There has been on an average this summer (or since the contract was made) scarcely six days in a month in which scows could go out with stone. In consequence of this, it will be late before the contract will be completed; but as the principal part of the stone which remains to be delivered is to be placed above the water, and can be lifted over the pier with cranes, even in rough weather, I confidently anticipate its completion this fall. In the accompanying draught of "profile No. 1," two irregular lines drawn across the profile of the mole, represent sections of the present mole as it will be when the stone contract is completed. The upper one represents a section any where between the pier head and the counterfort, (marked C,) which is the part most exposed to injury; the lower one represents a section any where from that point to the west end of the pier.

Agreeably to your directions, I visited Buffalo in July last, for the purpose of collecting such information in regard to the public works in that harbor, as might be applicable to the construction of similar ones in this harbor, where I met, by appointment, Colonel Totten, then inspecting those works. It is in accordance with his suggestions that I have prepared the accompanying estimates and drawings of works which are deemed necessary for the permanent security of this harbor.

For securing the present structures, $38,569, the amount of the estimate for finishing the mole according to "profile No. 1," is required. The rock bottom precludes the use of piles, and makes it necessary to have a more extended base. This mode is deemed a perfect security as long as the timber remains sound; but to make it permanent, the estimates for finishing the west pier, according to "profile No. 3," are submitted.

I also forward an estimate and plan for the foundation of a light-house, to be placed at the entrance of the harbor. I presume the drawing will sufficiently explain the manner in which it is proposed to build it. The crib work is intended to be filled up with broken stone and fine gravel, and grouted. The estimate for the light-house itself is founded on the actual cost of the one at Buffalo, and therefore the different items are not enumerated.

The reasons for selecting the end of the east pier for the location of the light-house, are—1st, the water is not so deep there as at the end of the west pier, and the bottom is better, being flat rock, as far as I have been able to ascertain. (There is a quantity of loose stone on some part of it, which it will be necessary to remove before a thorough examination can be had.) 2d. It is more accessible in bad weather; and, 3d, there are five acres of ground and a house, belonging to the United States, for a light-house keeper, on this side, and near the pier.

It is proposed to get the lime-stone estimated for at Chaumont bay, near Sackett's harbor, by contract, and the other stone from the quarries heretofore worked adjacent to the pier. These quarries are on the State lands, and I have obtained from the State the exclusive privilege of quarrying stone in them for the public works. I would therefore suggest that it will probably be cheaper for me to work these quarries myself, than to get these stone by contract, for I can work them as cheap as a contractor can, and what would be his profits in one case, would be saved to the Government in the other. Add to this the advantage of having every thing done just in the manner, and at the time it is wanted to be done, which can never be the case with a contractor.

The information which you directed me to obtain respecting the tonnage of the port, &c. will be forwarded in

a few days, as soon as the collector has completed the examinations necessary for obtaining it.

I send, enclosed in the roll with the drawings, a map of the village of Oswego.

I have the honor to be, very respectfully, your obedient servant.

R. C. SMEAD,
Lt. 4th Art. on Eng. duty.

FORT ADAMS, NEWPORT HARBOR,
November 9, 1833.

Brig. Gen. CHARLES GRATIOT,
Chief Engineer, Washington City:

SIR: In compliance with the tenor of a letter from the Engineer department, of June 24, I have visited and inspected the following works of harbor improvement on the shores of Lakes Ontario and Erie, namely, Oswego, Big Sodus bay, Genesee river, Black Rock, Buffalo, and Dunkirk, in the State of New York; Erie, in the State of Pennsylvania; Conneaut creek, Ashtabula creek, Cunningham's creek, Grand river, Cleaveland harbor, Black river, and Huron river, in the State of Ohio. And in further compliance with that letter, I have now the honor to submit the following report on the actual condition of those works, severally, and on "the amount of funds required to complete each according to the present plans, or according to such modifications of them as may seem proper to attain the end contemplated in constructing these works."

I may here remark, once for all, in relation to a "project for keeping them in good order and repair after they shall be finished," which I am required to submit, that no better mode has occurred to me than to commit them severally, when finished, to the supervision of the collector of the customs, inspector of the revenue, or light-house keeper, with instructions to report, at stated times, as to their condition; to keep a strict eye to their preservation from wanton injury or depredation; to apply immediate repairs to slight injuries, and to notify the department promptly of all serious accidents. An increase of salary accompanying these new duties would give them an attractive character, and insure their faithful observance.

Very respectfully,
Your most obedient servant,
JOSEPH G. TOTTEN,
Lieut. Col. Eng., Brevet Colonel.

Oswego harbor, N. Y.—The mouth of the Oswego river is an open roadstead, having no shelter from the dangerous winds which blow from the northern quarter—all winds from west, round through the north to northeast, driving the waves directly into the roadstead.

Two opposite, low, sandy points make out from the shores at the immediate embouchure, narrowing the channel somewhat, and affording a partial shelter within. This sheltered space is, however, very circumscribed, quite shallow, and the access to it against a current that is, at times, rapid; so that this inner space very imperfectly answers the purpose of a harbor.

To obtain a quiet and sufficiently capacious anchorage, a pier, beginning about 1,200 feet from the mouth of the river, has been run out from the western shore, first north 230 feet, then north about 55 degrees east, 1,155 feet, to the channel. The channel being 250 feet broad, a pier to the east thereof continues on the prolongation of the west pier (N. 55 E.) 644 feet, and thence, in a southeasterly direction, 222 feet, to the shore near old Fort Oswego. These may be designated *harbor piers*. From near the eastern extremity of the west harbor pier, and at right angles thereto, *a channel pier* runs a distance of 126 feet into the lake. These piers (see plan herewith) vary in their width at top, according to their situation, from 24 to 27 feet. They are built of side and central timbers, running longitudinally, and connected by numerous cross ties; the sides next the lake and the top being covered with planks, and the interior space being filled with stones. A number of buttresses, similar in construction to the piers, have been placed against the inner side of the harbor piers, to strengthen them against the shock of waves; and, with a similar object, stones have been thrown against the lake side of the west harbor pier, so as to form a mass, rising next the pier, near to the surface of the water, and having a base of from twice to twice and a half the altitude.

The effect of these works, just described, is to give a capacious harbor, perfectly safe in all winds, of easy access, and deep channel and anchorage.

During the present year, the operations on the harbor must be confined to finishing the buttress marked *b*; erecting the buttress *a* so as to occupy all the space between the buttresses *c* and *d*, in consequence of the force of the sea having curved in the pier opposite this space; repairing some other damages done to this pier, and adding to the quantity of stone thrown against the lake side of the west pier: all these matters involving an expenditure of about $8,000.

Although the development of the works for the formation of the harbor is complete, much remains to be done to give them present stability, and still more to give them permanency. The effects of the sea, urged by violent storms, upon the west pier, have been already noticed; planks were torn off, timbers displaced, and even the whole mass of the pier, in one place, bent inward. All further action of this sort must be prevented by adequate provision in the first place, otherwise extensive annual repairs will be called for, and these annual repairs will become more and more difficult and expensive. A large deposite of stones has been made on the outside of the west harbor pier, but as the top of this mass scarcely reaches to the surface of the water, the wave, rolling up the slope, impinges with great violence upon the whole of the upright and uncovered portion of the pier. The wave should either be carried by the slope towards the top, and sometimes, no doubt, over the top, or the pier should be raised so high, the outer surface being every where sloped, that the wave cannot reach the top. The first should be the preparatory, the second the ultimate profile of the pier. These profiles are marked in the drawing No. 1 and No. 2. To give to this pier the form of No. 1, will cost, by the estimate of the agent, $38,569 00

The entrance to the harbor is now but little benefited by the light-house on the hill near Fort Oswego. This leads vessels towards, but does not show the entrance into, the anchorage. Either of two modes may be adopted: a beacon or small light may be placed at the entrance, and both this and the present light be kept up, or a lofty, permanent light-house may be constructed at the pier, abandoning the old one. From the actual condition of the latter, this mode may, in all respects, be the most economical.

The position for a light-house will be just within the terminating buttress, at the western end of the east harbor pier. (See plan.) A permanant foundation for this light-house, enclosed by strong pier work, according to the drawing herewith, is estimated to cost - 4,651 45

A permanent light-house, in all respects like the one at Buffalo, erected on this foundation, is estimated at - - - 5,500 00

From observations made at this harbor, and elsewhere along the lakes, it appears that where the water is so deep that the waves do not break upon the natural bottom, they are best resisted by a vertical structure. This remark is known to be in direct opposition to prevailing notions, and to almost all practice; still it is now advanced with confidence, and may, ere long, be again urged more at large; at any rate, there is some direct proof in relation to the east harbor pier. In consequence of a strong conviction of the soundness of this opinion, the agent at Oswego was requested to "observe the east pier very carefully in every blow, and let me have his [your] opinion whether, if it be made vertical, with a strong wall, it will not do without a breakwater outside of it." The answer is, "I have had an opportunity of witnessing two pretty severe blows from the northeast, in which it would naturally be supposed that the east pier would be most exposed; but the flooring [top] was scarcely wet, while the west pier was continually covered by immense sheets of water; and the same happens in all blows that I have observed." "There has never been any stone thrown outside of the east pier, but a few washed out of the crib while they were sinking them, making an irregular bank a foot or two thick in some places." These circumstances induce the recommendation to make no change in the east pier but such as is required to give durability to the work, to wit, by substituting, above water, strong stone walls for the work now in wood. The present broad mass of stones on the outside of the west harbor pier, makes the application to it, of the principle here announced, impossible. The sloping profile must, in that case, be continued and perfected.

The expense, then, of placing the present work beyond accident, and lighting the entrance will, by these estimates, be -	48,720 45
Of which, all may be expended to advantage, according to the calculations of the agent, next year, excepting the cost of the superstructure of the light-house, namely	5,500 00
Leaving, as required for the services next year, - - - -	43,220 45

All the sustaining parts of these structures are, as before mentioned, of wood; and all the wooden parts above water are, of course, rapidly decaying. The contemplated labors of the next year have reference to a future substitution, which is unavoidable, of an imperishable material for the decaying portions, and, as there is much to do in this way, the succeeding year should begin the substitution.

To give the west harbor pier a permanent character, the profile No. 2 is recommended. The cost will be - -	33,842 00
To give the same character to the east harbor pier, profile No. 3 is recommended. The cost is estimated at - - -	22,960 00
To build the light-house, - -	5,500 00
Making the total estimated expense of finishing the works at this harbor in a substantial and durable manner, - -	$105,522 45

Big Sodus bay.—The artificial works at this harbor are as follows: 1st. A harbor pier, 2,138 feet long, running in a course a little north of east from the neck which connects Long point with the main shore. (See plan.) 2d. Another harbor pier, 1,372 feet long, running a little north of west from the northwest extremity of Point Charles. 3d. A channel pier running nearly north 640 feet from the outer end of the first-mentioned harbor pier; and, 4th. A channel pier running nearly north for 180 feet, and a little east of south about 150 feet from the outer end of the eastern harbor pier. The distance between the two channel piers, giving access to the harbor, is 475 feet. The piers are in part 14 feet, and in part 18 feet wide: they are formed of timber sides connected by cross ties, a floor of logs and top of planks, the interior being filled with stones. In a few places, as seen in the plan, the piers are reinforced by buttresses of timber filled with stones.

The works thus far described were commenced in 1829, and finished last year. They appear to have perfectly resisted the action of the waves, and being founded on a bottom of coarse sand and pebbles, have settled but very little in any place. The draught of water into the harbor is represented as having been increased by these constructions from less than 8 feet to 9 feet.

The work now in progress consists of an extension northward of the west channel pier 210 feet, and of the east channel pier 690 feet. It is supposed that these extensions will be completed this year with the present appropriation.

To complete the improvement of this harbor, it is proposed—

1st. To extend the western channel pier northward 300 feet, in order to keep the outside sand, which is said to be moved by the current towards the channel piers, from being lodged near the entrance, between the channel piers. This work may be executed in 1834, and is estimated to cost - - - - -	$7,000 00
2d. To erect a narrow pier along the back of Point Charles, and along the outside of the narrow part of the beach that connects this point with the main land, for the purpose of guarding the shore from the wash of the sea, which is now wearing it away. This pier will be about 1,800 feet long. To be erected in 1834, and estimated to cost - - -	8,000 00
3d. To dredge a channel for a length of about 500 yards, 150 feet wide, and 6 feet deep, which will give a draught of 15 feet water into the bay. Including machinery and all other expenses, this operation will cost, it is supposed, $20,000, of which $14,000 may be refunded in 1834, and $6,000 in 1835, - -	20,000 00
The substance to be dredged is represented to be a concretion of sand and iron, forming a mass of considerable, though not stony hardness. It is penetrated by the piles that have been driven on parts of the structure, and may, no doubt, be broken up and removed by ploughs and scrapers. The nature of this bottom promises permanency to any excavation that may be made in it.	
Total estimated cost of completing the present project - - - -	$35,000 00

The sum just stated, viz. $35,000, will give to Sodus bay all that was originally looked for, namely, a good depth of water in the channel; a spacious and perfectly

safe anchorage in all weathers, and, during daylight, an easy entrance. Two other indispensable qualities will still remain to be provided: these are, ready access by night, and such a strong and durable character in the works themselves, that the advantages mentioned may be secured for all future times. The first of these requisites may be had by the erection of a beacon-light near the end of one of the channel piers, of which the expense will vary according to the mode of construction. If of wood, and founded on a pier of timber and stone, the expense may be about - - - 2,700 00

Like all the other harbor improvements on Lakes Ontario and Erie, the operations at Sodus must, thus far, be considered as experimental: indeed, the problem as to this place is not, even now, fully solved; because, although a perfect shelter has been obtained for the deep water within the bay, sufficient depth of water over the bar (between the piers) does not yet exist.

There is no reason, however, to doubt the full success of the dredging process; and it is important now to look forward to the means that, in that event, will be needed to impart durability to those portions of the work which, to save cost in the uncertainty of the issue, were erected of perishable materials.

All the wood work of the piers above the lowest water of the lake will have decayed in eight or ten years. To substitute a facing of large stones for the outer, and of smaller stones for the inner side of the piers, making, with these, strong stone walls laid in hydraulic mortar, filling the space between the walls with inferior stones, and paving the top with large stones, will cost, it is supposed, about 40,000 00

This latter operation need not be begun for some time; and in fact it may be best to wait, in order closely and fully to observe the effect of weather, of the ice, and of waves, upon the structure. Careful observation during two or three years may point out important matters of detail in the conversion of this timber work into stone work.

According to these estimates, the future operations at Sodus bay will require the expenditures of - - - $77,700 00

Mouth of Genesee river.—The object of the improvements of the mouth of this river was to remove from between certain limits a body of sand lying off the mouth, through which there was a crooked channel, with but 6 to 7 feet draught.

To accomplish this object, beginning in 1829, two parallel piers were run into the lake from the points which form the mouth of the river. (See the plan.) The piers are distant from each other 360 feet. At the close of 1832, the west pier was 1,720 feet long, and the east pier 1,880 feet long. There have been added, and will be finished this year, out of the appropriation, 585 feet to the west, and 527 feet to the east pier, making the former 2,305 feet, and the latter 2,407 feet long. The effect on the bottom between the piers has perhaps fully realized the most sanguine hopes: the channel is now straight, and has a depth of 11 feet in the shoalest place. Where the depth was originally but 4, 5, or 6 feet, there is now 16 and 17 feet. The force of the current which has wrought this change has also operated to cause an unequal subsidence in parts of the piers: any further action of this sort may, however, be effectually prevented, and it is believed has been, by a small deposite of stones at the foot of the piers. The piers are of timber sides and cross ties, are filled with stones, and are from 18 to 20 feet wide: as yet their stability has been in no perceptible degree impaired by the violence of storms. In order to obtain a depth of 15 or 16 feet water, it will be necessary to advance the piers further into the lake, because the shoalest part of the channel is at and near the ends of the piers. It is supposed that a further prolongation of 900 feet will give the depth required. This prolongation may be executed in 1834, and, according to the estimate of the agent, will cost - - $22,500 00

There should be a beacon-light near the end of one of the piers, estimated cost 2,700 00

Total cost of bringing the works in their present form to completion, - - $25,200 00

The remarks made on the perishable nature of the materials employed in the construction at Oswego and Sodus, apply equally to these. Thus far, this experiment has been completely successful; and there is no reason to doubt a proportional triumph over natural obstacles for the additional means which it is proposed to apply. It becomes necessary therefore to know what must be done to give permanency to these important improvements.

Adopting a plan similar to that recommended for Sodus, that is, converting the timber work, above water, into masonry of the best kind, the expense is estimated to be about - - - - 34,000 00

Making the total cost of the future operations at the mouth of the Genesee river $59,200 00

Black Rock harbor.—It is through the artificial harbor that the great western canal of the State of New York gains access to Lake Erie; and it is by means of a large lock at the foot of the harbor that vessels passing between Lakes Erie and Ontario, through the Welland canal and Niagara river, avoid the Black Rock rapids. The pier which forms the harbor, by separating it from the river, and keeping the waters up to their lake level, runs south, nearly parallel with the east shore of the river, from the upper end of Squaw island, to within a short distance of Bird island. (See sketch herewith, A.) As the canal enters the Niagara river near the lower end of Squaw island, and leaves it again opposite the point just indicated, this portion of the harbor is also a portion of the canal, the pier and the dyke on Squaw island forming its western margin. This portion of the pier and the dyke was constructed by the State of New York.

At the point A, commences the work executed under appropriations from Congress. The pier diverges, at this point, towards the western end of Bird island, and continues 415 yards to B; it then runs south to the island, a distance of 158 yards, (to C,) and, lastly, it runs easterly to the eastern end of the island, (to D,) a distance of 200 yards.

Bird island is a mere ledge of rocks, scarcely rising in any place above the surface of the lake. This ledge has, however, considerable breadth, though lying chiefly under water, and occasions very heavy breakers in certain frequent winds. A pier was first built upon this island (from C to D) of timber: this was thrown down by the surf—and the operations of this year have been the sub-

stitution, in part, of a mole of large stones. The funds available under the last appropriation are, however, inadequate to such a construction as will insure its stability. The exposure is such, that only a work massive in itself, and made up of large stones, laid on the exterior side, with great care, in the manner adopted at the Buffalo mole, can be expected to withstand the violent action to which it will be exposed. At the eastern extremity of this mole there must be erected a beacon-light. This beacon, aided by the neighboring light-house at Buffalo, will afford safe conduct into the harbor, in almost any state of weather. The additional appropriation needed for completing the mole C D, and for erecting the proposed beacon-light, is estimated to be $3,000.

The appropriations by Congress for this harbor were founded on a project submitted by Major Maurice in the year 1828; which project, besides suggesting the works now finished or in progress, contemplated the erection of a pier or mole to commence on the east shore, within the jaws of the harbor, and extend obliquely into the lake, in the manner represented at E. One object of this mole was to render the harbor more safe and tranquil, by making it more close, and preventing the recoil of the surf into it from the adjoining beach; but another, and principal object, was to arrest the sand moving along the shore, and prevent its entrance and accumulation in the harbor. The sand thus borne along was, before the formation of the basin, carried away by the rapid current of the river; now, it is deposited just within the mouth. And although it has not as yet produced any serious inconvenience to the navigation, it threatens seriously to obstruct it, unless arrested by some suitable means. The proposed mole, it is thought, will be an effectual barrier.

The fact of a progressive motion of the sand along the shore is evident, in a greater or less degree, in many places on the lake. The cause is not obscure, and serves to explain the shutting up of certain rivers in the summer, the wearing away of points of land, &c. Taking the present case—suppose the wind to blow in the direction *a b*. (See sketch.) Let *c* be the point at which a wave, rolling up along the line *a b*, first begins to disturb the bottom, and *d* the highest point on the shore to which the wave is driven; a particle of sand may, therefore, be transported by the wave from *c* to *d*. The wave was constrained to pursue the course *c d*, by the direction of the wind, but, in recoiling, it will obey only the law of gravity; and instead of retracing its path, and leaving the particle of sand where it was taken up, it must retire by the line of greatest declivity of the shore, which is *d e*, (at right angles to the shore,) leaving the particle at *e*, advanced by the distance *c e*, on its journey towards the mouth of the harbor. The succeeding wave lifts the particle from *e* to *f*, and falls with it from *f* to *g*, and so on. All winds (as *a b*) blowing into the quadrant *e h*, tend to move the sand towards the harbor, while such as blow into the quadrant *e i*, for example, *k d*, tend to cause an opposite motion. But the former are the prevailing winds of the year; and having, moreover, an extensive range along the lake, they drive a heavy surf upon the shore in question: while the latter winds are but occasional, and, blowing off the land over only a narrow surface of water, cannot produce at this point waves of much comparative force. The balance of tendencies is, therefore, very decidedly towards the Black Rock harbor. It may here be observed that this motion of the sands must be at the expense of the shore towards the mouth of Buffalo creek, because the mole at the mouth of that creek prevents a supply of material from being furnished by the beach further south.

It is proposed to extend the new pier from the shore to about 20 feet water, which will give it an average depth, under water, of about 13 or 14 feet, to form it as high as the water's edge, of cribs of strong timber, well framed and fastened together, and filled with stones, and to construct that part of it which will be above low-water mark of massy stones, the side-walls being laid in hydraulic mortar, and in such a manner as effectually to resist the operation of the surf and ice.

The expense of constructing the pier may be estimated at twenty thousand dollars.

Total estimated expense of completing Black Rock harbor, twenty-three thousand dollars.

Buffalo harbor.—The works at this harbor consist (see plan) of a mole, chiefly of stone, which runs from near the old light-house, northerly about 290 feet, to the south shore of Buffalo creek, and thence (making an angle of about 120 degrees with this first part) about N. 73 degrees W. say 1,500 feet into the lake. The top of so much of this mole as projects into the lake is 16 feet above the water, and 12 feet wide. This top, near the end, gradually curves to the south, and swells out into a breadth sufficient to afford room for a light-house; the part of the mole which lies upon the shore is but 12 feet higher than the surface of the water, and does not exceed 9 feet in width at the top. On the exposed side, that is to say, on the south, a varying slope, gentle every where, but becoming more and more gradual as the distance from the shore is increased, extends from the summit of the structure to the bottom of the lake. By a gradual change of direction, this slope is made to enclose the mole-head and foundation of the light-house in such a manner as to cause a considerable enlargement at this part of the work. At the foot of this slope has been driven a row of contiguous piles, and another similar row has been driven at the intersection of this slope with the surface of the water. Between these two rows the mass is to be made up of large stones thrown in without particular regard to the positions respectively occupied by them. Within the inner row the surface is to be formed of large flat stones, placed carefully in courses upon their ends or edges, being thus deeply imbedded, giving to each other mutual support, and exposing their edges only to the action of the sea. This portion of the work is well advanced. The summit of the mole is now in part, and will be wholly, covered by a horizontal layer of large flat stones, accurately adjusted to each other, and well bedded on the smaller stones beneath. On the inner or channel side of the top there is a vertical fall of 12 feet down to the surface of what is denominated the tow-path; this fall being effected by a wall laid in mortar. Access is gained to the top from the tow-path by several sets of stone steps projecting from the wall. The channel side of the tow-path was built of "crib work," and part of the operations of this year has been the substituting a strong stone wall for the upper parts of this crib work.

On the north side of the channel is a timber pier, filled in with stones. It is nearly parallel with the mole, and is distant from it, in the narrowest part of the channel, about 200 feet. This pier is about 1,250 feet long, the outer end being about 600 feet less advanced into the lake than the end of the mole. This pier is about 15 feet broad.

It is designed to give to this pier the permanent character which already belongs, for the greater part, to the mole; and, for this purpose, to raise a wall on the channel side, from a little below the surface of the water to three feet above water; to pave the summit with large stones, making it 20 feet broad, and to form a slope of two to one on so much of the north side as extends beyond the beach, at the same time driving a row of contiguous piles along the inner side.

At the end of the mole stands a lofty stone light-house, of most beautiful and substantial workmanship.

The expenditure of existing appropriations, which must probably be carried somewhat into the next year, will, it is supposed, complete the north pier, the inclined surface and summit of the mole and the light-house, deposite the

stones still required in the space marked *w*, excavate the spaces marked *x y z* to a depth of 10 feet, and, in short, do all that was contemplated when the estimate of September 30, 1832, was made.

The progress of operations and the present condition of the works have, however, suggested other matters of importance. 1st. To prevent undermining, either by the swell or by freshets in the creek, it is proposed to drive a row of contiguous piles along the side of the tow-path for the whole length of the mole, and as far the United States ground extends; cost - $2,400 00

2d. The last estimate contemplated for the tow-path wall dry stone masonry. It is now proposed to build this wall with hydraulic mortar, which will cost, in addition, - - - - - 2,900 00

3d. Instead of loose, small stones for pavement of tow-path, it is now recommended to use large flat stones; these, with the extra labor, will cost - - - 7,140 00

4th. It was last year proposed to extend the tow-path 100 feet further up the creek; it seems necessary now to extend it to the limit of the United States land, which will cost - - $2,160 00

Deduct last year's estimate for the 100 feet, - 800 00

1,360 00

5th. Easterly of the boundary of the United States land, there is a point projecting into the creek, (marked *z*,) and forming an impediment to the navigation just where the creek makes a considerable bend. This should be so excavated that there may be a depth of 10 feet water in a continuous line with the same depth along the side of the mole; estimated expense, 6,200 00

Supposed cost, over and above the present appropriation, of bringing the works at Buffalo to entire completion, - - $20,000 00

Dunkirk harbor.—Dunkirk harbor is an open bay, of more than a mile across from cape to cape, and offering no natural shelter from winds blowing from the northern quarter. To provide this shelter, a breakwater has been built on a shoal which lies off the middle of the bay, and a pier has been run off towards the breakwater from the western shore. The former is about 1,400 feet long, and the latter 1,564 feet long. Both these are strongly framed timber structures, filled with stones. (See the sketch.)

About $4,800, which was available for this year, will have been expended in the construction of the outer 320 feet of the pier.

The original design for this harbor, made by Major Maurice, is said to have contemplated the extension of the pier about 300 feet, the breakwater about 600 feet further eastward. The protection afforded by the present works would, it is thought, be improved by such extensions to a degree fully proportionate to the additional cost; at the same time that the eastern channel would not be changed, and the western channel would be left of ample depth.

To extend the pier 300 feet, is estimated to cost - - - - - $6,006 80

To extend the breakwater 600 feet, is estimated to cost - - - - - 9,511 50

Add for contingencies, &c. near 10 per cent., - - - - - 1,481 70

The works, thus arranged, will afford a very excellent anchorage, having, by daylight, an easy entrance. It is, however, believed to be indispensable to light the immediate entrance by a beacon, which, of wood, will cost, say - - - 2,700 00

Making the additional expenditure, required to complete works in their present form, amount to - - - $19,700 00

No appearances give reason to doubt the stability of the present works; but they cannot be said to be complete so long as the parts above water are of materials rapidly decaying. It will be absolutely necessary, in some few years, to build, above water, strong stone walls in lieu of the present timber facings, and to cover the tops of both pier and breakwater with pavements of large flat stones, all laid in hydraulic mortar. Data for an estimate are not at hand.

Erie harbor.—This harbor, about four miles long and nearly two miles broad, is formed by what has long been denominated "Presqu' Isle." This is a low, sandy tract of ground, stretching out from the main shore, first being quite narrow, in a northeasterly direction, then gradually increasing in breadth, and turning more and more easterly, and finally, having acquired a breadth of more than a mile, terminating abruptly nearly north of the town of Erie. This tract has several deeply indented bays at its eastern end, encloses several ponds, and is, in general, thickly covered with woods. (See plan.)

At the time the improvements of this harbor were first projected, there existed but one inlet. This was at the east end, and through it there was one crooked and intricate channel, of about 5½ feet water. After the works of improvements were well advanced, and had already been attended by the most happy results, giving a draught of 12 feet through a straight channel, a new inlet was unexpectedly made through a narrow part of the Presqu' Isle, near the west end of the harbor. Before adverting to the probable consequences of this breach, it is proper to describe the actual condition of the works at the eastern entrance, and such further operations as may be there called for.

From a point on the main shore, which considerably narrows the entrance, (see plan,) a line of harbor pier, six feet wide, was run N. 19 W. 1,700 feet towards the southeastern point of the Presqu' Isle; pursuing the same course, the pier, with a breadth of 10 feet, was prolonged 317 feet further. At this point began the south channel pier, which was run, first, N. 35 E. 482 feet, being 10 feet broad, and then, N. 63 E. 302 feet, with a breadth of 12 feet. On the prolongation of the south harbor pier, the distance across the channel is 600 feet; and at the east end of the south channel pier the channel is 375 feet wide. The north channel pier projects into the lake a distance of 1,017 feet beyond the prolongation just mentioned, and into the harbor a distance of 246 feet, the course of the whole pier being N. 63 E.; its width is generally 13 feet.

The north harbor pier was extended in the first instance N. 17 W. 673 feet, to a low point. This point, however, by the action of waves and current, changed its place; thus making it necessary to connect the pier with it, in its new position, which was done by extending the pier N. 27 W. 1,050 feet. In consequence of still further changes in the form and position of this point, it became at last necessary to diverge, and to carry the pier a further distance of 1,284 feet, to be there united with another point more inland, leaving the outer point as an exterior breakwater. This harbor pier is six feet wide.

The last-mentioned length of 1,284 feet falls within the operations of the present year, during which it will be completed. The amount now available will also fill the harbor and channel piers entirely full, wherever there is a deficiency of stones; will, besides, cause a deposite of stones to be made for the security of the east end of the

south channel pier, and will supply all deficient planks in the tops of the piers.

In regard to a portion of the future operations on the harbor, perhaps the most distinct idea can be formed from the instructions which, in reference thereto, were left with the agent. They are, therefore, in part, here transcribed.

"A very careful sounding should be made along both sides of the piers and breakwater, (harbor and channel piers,) and off at the several distances of say 15, 30, and 45 feet. These soundings should be laid down upon a plan of the works drawn on a very large scale. Lines of soundings should also be run across the channel at about every 50 feet, and entered upon the same drawing.

"Wherever these soundings show that the sand has been grooved out next the works, stones should be thrown in until they rise 3 or 4 feet above the proper bottom, and have a slope of 2 base to 1 altitude.

"In certain places it may be advisable to throw in these stones upon a stratum of brush wood. In case these stones are thrown into a place exposed to a heavy swell, they should be large; if not so exposed, they may be small. The east end of the south channel pier should be reinforced with a mass of large stones without delay.

"It is considered very important that the soundings above mentioned should be taken and protracted on the plan with great accuracy; so that, being done from time to time, (the dates always being entered,) the progress of every change in the bottom may be distinctly seen. What will it cost to place these stones? Can they be thrown in this year?"

As no estimate is made by the agent, in a letter lately received from him, for throwing stones along the sides of the piers, it is presumed the soundings above directed showed the bottom next the piers to be undisturbed. The above-mentioned reinforcement of the east end of the south channel pier will be effected by the funds in hand.

"One of the most important future operations will be the closing the present breach at the junction of the south pier and south breakwater, (south channel pier, and south harbor pier.)

"To do this, I would recommend that two rows of piles be driven, as in this sketch; the piles being about 8 or 9 feet apart in each row, and the rows being from 20 to 30 feet apart, according as they can be made to embrace, more or less closely, the ruins of the old work; but whatever may be the separation of the rows, the several parts of the rows should be accurately straight. These rows should overlap upon the present fixed parts, from 15 to 30 feet. The piles being driven, and secured to each other at the top by temporary ties, small stones should be thrown into the hole at and near the breach, until a level surface has been formed therewith, 15 feet below the surface of the water. Curbs of strong timbers, well secured by cross ties, should then be sunk in close contact with the piles, and so as to occupy all the space between the piles. These cribs being filled with stones, a bank of stones, about 6 feet high and 12 feet broad, should be added on each side of the crib work. A section of this work is here given. What will it cost?"

The estimate furnished for this object amounts to $3,045.

The breach just described was made by the very same action of the water as is relied on to maintain a straight and deep channel between the piers. The action, however, at this particular point, was greater than was looked for; a portion of the pier work was undermined, upset, and ruined; and so great, at times, was the current through the breach, that the sand of the bottom was scooped out to a depth of 30 feet. This breach must now be repaired with such precautions as will avert any similar accident for the future. These precautions are indicated in the instructions just quoted.

Up to this moment, this project for the improvement of the harbor has never been brought to bear fully upon its object. The line across the inlet has, indeed, been complete; that is to say, it has connected the two shores once or twice; but, before sufficient time had elapsed to give the maximum result as to the channel, either the waters had worked a passage round the south end of the harbor pier, or they had found an outlet through the breach, thereby materially weakening the action in the channel. Notwithstanding these divisions of the current, however, the experiment, as has been stated, is successful; a deep and direct channel into the harbor having been substituted for one that was both shallow and intricate. But it will not anwer to leave the works in their present state, because the breach will be progressively enlarged by the undermining of more and more of the piers, and at last the current through the channel will be so reduced, that the passage may be closed by a new deposite of sand.

The first object then must be to bring the piers, in their present form, to entire completion, by connecting them securely with the shores, so that no water shall pass around them; by fully loading them with stones, so as to give strength to resist the shocks of waves, ice, &c.; by protecting their bases from the undermining force of the current; and by closing the breach, so that all the passing water at the end of the harbor shall be limited to the channel.

As before stated, the estimated expense of these operations, over and above the sum now available, is $3,045.

Before the formation of the new inlet at the west end of the harbor, especially after some progress had been made in the works, there was no visible reason to doubt the happy issue of the experiment. Is there any reason to doubt it now? This is an important question, and one which at this moment does not, probably, admit of an answer. If the new inlet is to cause a diminished depth of water through the eastern entrance, this new inlet must be closed; if, on the other hand, no sensible effect is produced on the eastern entrance, and none upon the depth in the harbor, then two things may be done: 1st, precautions may be taken to guard the Presqu' Isle from a further spread of the inlet, or, 2d, a western entrance may be formed with part of, if not all, the qualities of the eastern; and should the latter result be obtained, the valuable properties of this harbor would be greatly enhanced. Can this question be solved now? In other words, can the best mode of operation be hit upon now, with that degree of certainty which would warrant the considerable expenditures required? It is thought not. There is good authority for stating that the depth through the new inlet is less now (by about 2 feet in the deepest) than it was some months ago: there is also good authority for stating that the current through the eastern channel has not greatly lessened, and it is certain that the depth through this channel is still quite sufficient; and, though there is no mode of ascertaining accurately whether this channel remains unchanged, has somewhat lessened, or increased its depth, there is, at least, no direct evidence that the draught has been at all reduced. If, then, no injurious consequences have resulted to the old inlet, from the new, while the former has been in a state not admitting the full display of its improving tendencies, it seems advisable to wait for this display before a decision is had on the project to be applied to the western entrance. While there was but one shallow and sluggish channel into the harbor, it would have been a bold scheme that contemplated the formation of two artificial channels, wrought to considerable depths solely by the rapidity of the current. One such channel has, however, already been produced; and present appearances, and circumstances which have developed themselves during the present progress of the operations, show that a second is certainly not beyond the scope of possibilities.

A short delay will not, at any rate, be attended with any evil; and in the mean time measures may be taken which will make the Government to decide correctly either upon closing the new inlet, leaving it open, with some precautions against a further extension, or forming a second artificial channel. The measures adverted to, besides the completion of the present works, as herein advocated, and the minute soundings at the eastern entrance, as directed in the instructions above quoted, include a survey of the harbor and Presqu' Isle, and accurate and numerous soundings over the whole harbor, in the new inlet, and in the lake opposite. The survey and soundings being made on a drawing thereof made to a large scale, new sets of soundings should be marked at least every three or four months; the places of the new soundings corresponding as near as possible with the places of the old.

Should any changes be in progress, a year or eighteen months will fully show their nature and tendencies. And unless the whole truth in relation to this matter be known, that is to say, unless it be known whether the bottom be unchangeable, or, if otherwise, to what extent and in what manner changes are being wrought, it would be only by hazard that a suitable system of operations could be selected.

Finally, under these views of the whole subject, it is recommended—

1st. To cause the present works to be brought to completion, and to be secured against any further injury or accident for any cause.

2d. That directions be given to attend closely to the instructions above quoted in relation to the soundings at and near the pier and in the channel.

3d. That a survey be made of the whole harbor and Presqu' Isle, including very numerous soundings over the whole harbor, through the new inlet, and in the lake opposite thereto; and that a new series of soundings, always as nearly as possible in the same spots, be taken every three or four months, and noted upon the map, together with any changes that may have been made in the form of the shore.

So much is yet indeterminate as to future labors in this harbor, that it would be useless now to attempt an estimate of the ultimate expense.

Mouth of Conneaut creek.—The works for the improvement of the entrance to Conneaut creek consist of two nearly parallel piers, which run first north about 330 feet, and then northwesterly about 800 feet, into the lake; at this distance the piers diverge, and continue 120 feet further, causing the channel, which is elsewhere about 100 feet broad, to be increased to 176 feet. (See plan.)

Previous to the erection of these piers, the mouth of the creek was often, during a low state of the water therein, entirely closed, being shut up by a dry sand bank. Now, excepting at one spot, where there is a narrow gravel bank with 8 feet water over it, the channel varies from 9 to 16 feet, and remains equally deep at all seasons.

The $3,500 (about) available for these works in the beginning of the year, will suffice, it is thought, to complete them in their present form; the operations being confined to finishing some wood work, throwing stones next the bottoms of the piers in certain places, and dredging out the gravel bar.

A beacon-light, which should be placed on the end of one of the piers, with cost, say $2,700.

The conversion of the upper parts of these wooden piers into strong stone walls, which will be indispensable in a short time, will involve a considerable additional expense. There are now, however, no data at hand, whereon to found an estimate of their cost.

Mouth of Ashtabula creek.—This creek, like the Conneaut, was sometimes entirely closed by a dry sand-bank, and the works of improvement, designed here as there to keep the channel permanently open, have been attended by a like result. Here, however, a bed of rock was encountered by the current, which, of course, set limits to its effects.

The works consist of two nearly parallel piers of timber filled with stones. They are about 1,250 feet in length, running nearly north into the lake, and are 14 feet wide.

The width of the channel, owing to the piers not being perfectly straight, varies from 100 to 145 feet.

Although the piers, as delineated on the plan herewith, are complete as to the wood work, a quantity of stone in addition will be required to increase their stability; cost estimated at - - -	$425 00
It is deemed expedient to prolong the west pier up the river, so as to unite with the bulk head, marked *a*, and to extend both piers about 150 feet further into the lake, to enable the current to remove the sand bar lying off the entrance. These operations will cost - - -	7,591 40
The rock, before spoken of as arresting the action of the current, allows a draught into the river of not quite 7 feet over the rock, and at the same time secures from disturbance the lighter materials of the bottom, for some distance both within and without the ledge. This is evident from the plan. Fortunately this rock is of so soft a texture that it is broken up rapidly by the machinery now in operation.	
The expense of taking out the rock remaining after the year's operations, for a channel 60 feet wide and 10 feet deep, is estimated at - - - -	4,600 00
To show the way into the harbor at night, a beacon-light at the end of one of the piers is indispensable; estimated cost - -	2,500 00
	$15,116 40
Deduct amount available after this year's operations - - - -	3,717 27
	11,399 13
Add 2½ per cent. for disbursement -	284 98
Amount required for next year's operations	11,684 11
The succeeding year's work should consist in enlarging the rock excavation as much as can be done without endangering the piers; the cost thereof is set down at	3,075 00
Making the total expense of bringing the temporary works to completion - -	$14,759 11

As in several other cases, the cost of substituting stone for the timber work above water cannot well be ascertained. That expenditure will, however, be unavoidable at no distant day.

Mouth of Cunningham's creek.—The object of the improvements at this place was to obtain shelter for vessels, independent of all access to the creek; and for this purpose Major Maurice designed two parallel piers to run into the lake at the distance of 475 feet from each other. This wide space to be nearly covered in front by an isolated pier, or breakwater, lying still further in the lake, and running parallel with the shore. The parallel piers were to be formed of cribs, or small piers, separated from each other, for water way, about 30 feet, and connected at top by bridging. The breakwater to be solid from end to end. (See plan No. 1.) In execution of this project, the works for the western pier have been carried out the intended distance, and are represented as having already rendered very great service to the navigation of the lake, although as yet inadequate to the demands of business.

Of about $500, available for the operations of the present year, it will be expended upon the piers marked *a* and *b*, without bringing them to completion. In the opinion of the local agent, observation and experience have shown that the plan of Major Maurice would be improved by converging the eastern pier towards the western, as shown on No. 2 of the plan: as thereby, while the harbor would be sufficiently capacious, and expense less, a better shelter would be afforded, either independently of the breakwater, or with an equal length of breakwater.

The expense of completing the present pier, together with some repairs in the wood work, may be estimated at - - - - -	$500 00
The expense of constructing the eastern pier, according to No. 2 of the plan, is estimated at - - - - - -	6,665 20
The expense of erecting the breakwater, according to No. 2 of the plan, is estimated at - - - - - -	6,388 90
A beacon-light, say - - -	2,000 00
Making for the purpose of completing the harbor, a further appropriation necessary, of - - - - - -	$15,554 10

Giving a permanent character to those works, will require the future application of stone work for the wood work that is out of order. The cost thereof cannot now be calculated.

Fairport, mouth of Grand river.—The works at the mouth of this river are two piers, separated about 200 feet, and running a nearly north course, about 600 feet beyond the original shore, into the lake. At this distance the eastern pier terminates; but the western turns a little westward, and proceeds 150 feet further. Within the original line of the shore the western pier continues first south about 200 feet, and then southwest 308 feet, to the left bank of the river. The eastern pier runs within the same line a nearly south course for about 400 feet, where it joins the private wharves. (See plan.)

During the summer, the mouth of this river was often entirely closed, while now there is a straight and free channel of at least 12 feet depth.

About $1,200, which was available for the present year, will have been expended in driving piles, in planking, and in throwing stones into the two piers.

A foundation has been laid, near the end of the east pier, for a beacon-light. The light-house is yet to be erected, and will cost, say $——.

Not having received from the agent the estimate, asked of him, of the necessary future expenditures at this harbor, the amount cannot now be stated.

Cleaveland harbor.—The map of the mouth of the Cuyahoga river, herewith, shows that a draught of at least 11 feet water can now be carried between the piers into the river, although the mouth, previous to these improvements, was, at times, entirely closed.

The piers, which have wrought this important change, are, for the greater part, parallel, running about 1,200 feet into the lake, and having between them a channel of about 200 feet in width. At the outer extremity of the eastern pier is a beacon-light, which it is designed to reinforce by some additional pier work; and it is also designed to add a wing and pier-head to the western pier. At the beach, or shore of the lake, the two piers diverge considerably as they extend up the river, in order to their being firmly united with the shores. The pier work is generally from ten to twelve feet abroad, and rises about four feet above the surface of the lake.

The sum of about $3,400, which was disposable at the commencement, will all be required for the operation of the year, in placing stones within and by the sides of the piers, adding some timber work, &c.

Recent soundings have shown that to guard the piers from the undermining action of the current, stones must be deposited to the amount of $4,800. In addition, stones must be thrown into the piers wherever they have settled. For these materials, for brush-wood, for labor and contingencies, &c. the whole expense

is estimated at - - - - -	$7,200 00
For addition to the eastern pier head, to protect the beacon-light - - -	1,569 50
For a wing and pier head to the western pier - - - - - -	4,545 70
Making a present additional appropriation necessary, of - - - - -	$13,315 20

In the future change of the upper perishable portions of these works into stone, it should be borne in mind that the present height of these works, and all others on the lake, excepting those at Buffalo, is too little, especially for works in stone. The beacon-light pier head is here about 7½ feet above the surface; still high seas roll over it. The rest of the work being but about four feet, is, of course, swept by much more moderate seas. It is now often an undertaking of no little danger and difficulty to get access to the beacon-light at times when the light is most needed.

Mouth of Black river.—The piers which form the entrance into Black river are separated about 200 feet, and extend into the lake from the original beach—one about 1,300 feet, the other about 1,000 feet. The mean course is just N. 62 W., and then N. 46 W. (See plan.)

The mouth of the river is not known to have been entirely closed, although the depth has been sometimes not more than three feet. At present there is every where a sufficient depth of water, namely, from 10 to 15 feet, except on a shoal which extends from pier to pier, not far within the mouth of the harbor. On this shoal there is but 7½ feet in the channel; and five feet near the piers.

The sum of $4,700 (about) which was applicable to expenditures here within the year, will have all been disbursed in erecting the head of the west pier, marked *b*, and in dredging at the shoal.

In prolonging the east pier, (*b* and *c*,) filling the piers with stones wherever deficient, protecting them at their bases wherever required, excavating the channel and also the shoal in advance of *c*, erecting a beacon-light, &c. it is estimated that a further sum will be expended of $17,700.

Mouth of Huron river.—The mouth of this river, like several others mentioned, was, before the construction of the harbor works, often completely shut up by a bank of sand. Now, as shown on the plan, there is a straight channel of from ten to twelve feet depth.

The piers are nearly parallel, being 140 feet apart at the outer, and 170 feet at the inner end. Their whole length is about 1,400 feet, and they project into the lake about 1,000 feet. Their breadth varies, according to circumstances, from 8 to 18 feet, and they rise 5 feet above the water.

The sum remaining unexpended, of not far from $500, will probably be sufficient to replace the few stones that have sunk from the piers.

It seems advisable, for the safety of vessels entering the harbor, to construct a head about 90 feet long to each of the piers. These should stand obliquely to the direction of the piers, so as to increase the width of the entrance. As the agent did not furnish an estimate thereof, the cost cannot be here stated.

A beacon-light on one of the piers will be indispensable, and may cost $2,700.

The future cost of replacing the upper timber work with strong walls cannot now be estimated.

Before closing this report, it is thought proper to recommend that instructions be given to the agent at each of

these harbors to make, without delay, (if not already made,) an accurate survey of the works now erected, drawing a plan thereof on a large scale; to make very numerous soundings within the channel, and off from the piers, noting the results upon the map; to repeat these soundings at intervals of three or four months, making them always in the same lines, and, as near as possible, in the same places; and, in order to secure this agreement as to the places of the soundings, to cause the piers to be permanently marked at the points whence the lines of soundings are run. To show, in part, the manner in which these surveys and soundings should be made, a sketch (on a small scale) is given herewith.

In conclusion, it is but just to mention that, to all the works examined, there seemed to have been applied a judicious system of operations, and a watchful care of the public interests.

All which is respectfully submitted.

JOSEPH G. TOTTEN,
Lieut. Col Eng., Brevet Colonel.

Report of work done at the Great Raft, on Red river, Louisiana.

On the 1st of April last, I arrived at the foot of the raft with four steamboats, viz. the snag-boat Archimedes, the Souvenir, Java, and Pearl, all belonging to the United States, and one hundred and fifty-nine men, including officers, mechanics, cooks, laborers, &c. At ten o'clock that day commenced work, and proceeded into the raft on that day about two miles, but found the current so slack that the timber, when separated, would not float off. The dead water extended, at that time, about forty miles below the raft. On the 12th, I began to pass the timber out of the river into the low bottoms and bayous that pass off from the main bed of the river to the lakes and swamps. Those bayous I have filled up in as effectual a manner as it was practicable at the high stage of water that prevailed during my stay at the raft, throughout the whole distance I proceeded. By that means I forced the water, which was carried off by the bayous, to pass again down the old channel, which has produced a current from the extreme upper end of my operations to the original foot of the raft, and forty miles below, of three miles an hour. In the distance of seventy-one miles, which I proceeded into the raft, I found the mass of timber in fifty-six sections covering about one-third of the whole surface of the water. In many places the timber was quite solid to the bottom of the river, which I found to be an average of twenty-five feet deep. Many places, however, immediately above or below a section of the raft, the water did not exceed fifteen feet, until after the raft was removed, and a current produced by opening a free passage for the water, when those banks of mud all disappeared in a short time, and left a uniform depth of twenty-five feet. The islands that had been formed by the location of the raft have all been taken out, by drawing the trees that grow on them out by the roots, and the action of the water on the mud and sand of which they had been formed. All the timber that leaned over the water in such a manner as to obstruct the navigation, has been taken away as effectually as it could be done in high water. The navigation is now good for steamboats as high up as the Caddo agency, seventy-one miles above where I found the foot of the raft in April last. Still great improvements may be made on the same distance, by cutting away the growth of timber that has sprung up within the natural banks of the river, quite down to its extreme low-water bed, since the formation of the raft. This, however, is absolutely necessary, and must be done to put the river in a situation to carry the entire mass of drifting timber that annually falls into it, out to the Mississippi, and by that means effectually prevent a removal of the raft. It will also be necessary to extend that work to the head of the raft, or as high up as the timber may have grown up, so as to form obstructions to the passage of the timber that must pass down in the spring freshets. The mouths of the bayous which have been cut out from the main bed to the swamp, must also be carefully stopped up, so as to turn the water back into the original bed, which has sufficient capacity to carry off the whole column of water as soon as the raft is removed, and the channel brought back to its original course, which must be the consequence of filling up the bayous, and taking the timber out of the bed through the main river. This work can be most effectually done during low water. It will be advisable to do it in the months of October, November, and December. The same men may be continued through the high-water season. By this means the whole work can probably be done by one expedition, from say 1st of October to 1st of June.

From the best information I have been able to obtain, there yet remains about seventy miles in length of the great raft. I have passed through thirty miles of the remaining raft, which I found to differ but little from that already removed, either in character or quantity. But near the head of the raft the labor will be much increased, owing to the strength, size, and quantity of timber. Having more recently fallen into the river, many of the trees still retain their branches and roots, which will make them much more difficult to remove than timber that has been lying in the water so long as to lose the tops and roots by decay. Under these circumstances, I am induced to believe that an appropriation of $10,000 will be as little as the whole work can be effectually completed for, if done in a proper manner, and so finished as to be permanent, and free from all risk of a re-formation, which must undoubtedly take place if the timber is not cleared out of the bed of the river in such a manner as to prevent the drift-logs from lodging on the banks. To accomplish the work will probably require about the amount of labor and expenditure shown by the accompanying estimate.

That the removal of the raft can be accomplished, there is no doubt. Nothing is required but the necessary funds in the hands of an individual who possesses the requisite skill, with sufficient energy to put that skill in operation.

As relates to the expense of removing the raft, it will be repaid at least threefold by the lands that must evidently be redeemed on the immediate line of the raft. All that land is of a first-rate quality for the growth of cotton, and there is now growing the best tobacco made in the United States on several improvements now in cultivation on the river, about midway of the raft.

I am, sir, respectfully,
Your obedient servant,

HENRY M. SHREVE,
Superintendent, &c.

Annual report of work done, for improving the navigation of the Ohio, Mississippi, Red, and Arkansas rivers, ending the 30th September, 1833.

In the months of October, November, and December, 1832, January, February, and March, of this year, the steam snag-boats Helepolis and Archimedes removed from the bed of the Mississippi river 1,293 snags. The same boats, in August and September, 1833, removed from the bed of that river 667 snags—in all, 1,960 snags during the year. The crews of the same boats have within the year felled from the falling-in banks of the Mississippi (at times when the water was too high to remove snags, and when the engines of the boats were out of repair) about 10,000 trees. During the month of November last, those boats were engaged in removing the Choctaw Indians from Memphis, Tennessee, and Vicksburg, Mississippi, to the mouth of the Arkansas river.

One hundred men were employed in August, September, October, November, and December, 1832, felling timber on the banks of the Mississippi river, and cutting

snags from the dry bars and island chutes. They proceeded from St. Louis to the mouth of the St. Francis river, distant five hundred miles, where they cleared the timber from all the falling banks and dry sand-bars. The last-named work (felling timber from the banks of the river) is thought by many persons to be an injury and not an improvement to the river. I am, however, of a very different opinion. I believe it to be the only effectual mode of removing obstructions from the shores, and of great importance to the improvement of the channel. This opinion has been formed from actual observation. For some five or six years the trees have been cut from the falling banks of the river, nearly all the distance for the first three hundred miles below the mouth of the Ohio, where the shores of the river are comparatively clear of snags, logs, and roots, safe to land at with a flat-boat; and in the stream the accumulation of snags is not more than half so great as in those parts of the river where the timber has not been felled from the banks; nor are the banks safe to land at with any description of boat, in consequence of the bends where the banks fall in being very much obstructed along the shores with the trees, roots, and logs that are falling in with the banks. Many persons object to felling the timber above alluded to, alleging that the stumps roll in as the bank caves in, and lie on the bottom, forming a dangerous obstruction to the navigation. This I view as an erroneous opinion. Every man well acquainted with the character of the Mississippi river, must recollect that the banks that fall in are washed by the deepest and most rapid portion of the stream; consequently, when a stump slides from its foundation, it sinks below the draught of any craft that can navigate the river, as the bends where the banks fall in are universally from ten to fifteen feet deeper than the best channels over the bars that stretch across the river from the foot of one bend to the head of the next, at almost every point in the river. Where the timber falls in, the root sinks, and the top either floats and forms a snag, or the top of the tree lies on the bank, and keeps the shores perpetually obstructed, to such an extent that a flat-boat attempting to land at them, and if caught in a gale of wind, they are obliged to pull for the first bend they can make, are frequently stove and lost; and if they make the land, they are liable to be sunk by the trees falling on them. That work has, however, been abandoned for the present year, very much against my judgment.

During the last year several steamboats have been lost by striking logs or snags; but none of them were good and substantially built boats. I would here beg leave to observe that a great many of the boats now navigating the Mississippi river are very light timbered, just sufficient to hold the plank together to bear calking; consequently, if one of those boats strikes a snag, drift log, or any thing of sufficient weight to fracture the plank, the boat is stove and sunk. The inquiry is then made, what did she strike? The universal reply is, one of Shriver's stumps; but if it was a stump, and a first-rate substantial boat were to strike it, she would evidently be stove, for a stump is one of the most dangerous descriptions of obstructions that could be in the river. But I have not known a good substantial steamboat to be stove, excepting one, for the last four years. The heavy boats of thee hundred tons and upwards are nearly all stout, well-built boats, and from their greater draught of water are more liable to strike than those of a smaller class, and, if they do strike, must receive a much heavier shock, from their greater weight and greater speed with which they run, for the largest boats are universally the swiftest. Yet but one of that class of boats has been stove in the Mississippi river in the last four years; consequently, I am of the opinion that almost all the losses of steamboats for the last four years, from being stove, have occurred from the insufficiency of the boats, and not from the stumps, to which nearly all the losses are charged. I am of the opinion that the Mississippi river is at this time as safe to navigate, except in extreme low water, as it will ever be. For the improvement of the extreme low-water navigation of that river, much is yet to be done. To execute that part of the work, it requires extreme low water, which continues but a short time each year, consequently requires a longer time to complete.

In the Ohio river, there was a dam built last fall at French island, one at Three-mile island, nearly completed: the dams commenced at the Scuffletown bar and the Three-sister islands were finished. At all those places the improvement effected has been quite equal to my most sanguine expectations. They were formerly the most difficult and shoalest bars on the Ohio river, at which no difficulty is now experienced by any boat that passes. At the head of Cumberland island a dam was commenced in September, 1832, which was so far completed as to produce a material change in the channel to the left side of the island, and probably would have been completed last year, had not the cholera made its appearance among the laborers engaged in the work, about the 25th of October, which suspended the workfor six weeks. A rise of water on the 13th of December made it necessary to close the whole operation for the year. In August last the work was again commenced at that dam, and has since been progressing as fast as circumstances will permit. In consequence of the prevalence of the cholera last fall, and again in the summer of this year, laborers have been difficult to obtain. There are now about 200 men employed on the work. The dam is finished, except closing the pass through it, which was necessarily left for the passage of boats, until the chute to the left of the island had sufficiently washed out and deepened to admit boats navigating the river to pass through it. There is now, within a few inches, as much water through the chute, as there is on many of the bars between it and Louisville; and doubtless before the dam is so far completed as to prevent the passage of boats through it, there will be much more water through the chute than can be found in many other parts of the river above. My present calculation is to finish the dam before the rise of water in the winter stops the work, which, when done, will be a lasting and valuable improvement. The advantage gained by its construction is to make the Ohio river navigable on that side of the island in which the Cumberland river enters, which has heretofore been obstructed by a sand-bar several feet above the level of low water. At the extreme low water this year, there has not been less than eighteen inches over that bar. At this time there is three feet, and a large portion of the boats pass that channel; and, when the dam is completed, the bar will evidently entirely disappear. One of the shoalest bars in the river, situated at the foot of the same island, will be effectually improved by the same dam. Those immediately interested in the navigation of the Cumberland river, and the citizens of Smithland, a flourishing town at the mouth of that river, were apprehensive that, if a dam was built at the foot of the island, and below the mouth of the Cumberland river, the passage up the Ohio to the mouth of the Cumberland river would be materially injured at low water. They therefore petitioned the Secretary of War to instruct me to commence and build the dam required at the head of the island, where it is now building. To those petitions I respectfully beg leave to refer, as also to my instructions on the subject. I commenced the dam, believing it to be a practicable undertaking, and of great importance to the navigation of both the Ohio and the Cumberland rivers. My opinion has been strengthened by the construction of the dam as far as it has been done. It has however required much more labor and time than I anticipated, and will yet require much to finish it. The rock of which it is constructed

has been quarried out of a solid lime-stone rock. The length of the dam is about half a mile, the average depth of water at its lowest stage about twelve feet; the top of the dam is raised four feet above the surface of low water; its base will average thirty feet. Of the complete success of the improvement I have now no doubt. It is now absolutely necessary to finish it at as early a day as possible. To accomplish that object every exertion in my power is now making.

For a statement of the operations at the great raft in Red river, I beg leave to refer to my report on that subject, under date of the 30th of July last. A rough sketch of the Red river, the bayous, lakes, and swamps where the raft is situated, is herewith forwarded. It was taken from the foot of the raft to Coates's bluff as I passed up; from thence to the head—from the best information I could obtain. It is by no means strictly correct, but will convey a more correct idea of the country than can be otherwise given.

Preparations were made for removing the snags in the Arkansas river in August last. But when the steam snag-boats entered that river, it was found too low to operate with those boats, and but 20 snags were removed. So soon as the water rises in the approaching winter, that work will be begun, and executed to as great an extent as the appropriaton for that purpose will admit.

I am, sir, very respectfully, your obedient servant,

HENRY M. SHREVE,

Brig. Gen. C. Gratiot, *Superintendent, &c.*
Chief Engineer, Washington.

MILITARY ACADEMY.

To the Secretary of War:

The Board of Visiters, who have been invited to be present at the general examination of the cadets of the United States Military Academy, in order that the War Department may be correctly informed of the condition and management of the academy, have attended the examination of all the classes, and are perfectly satisfied with the progress made by the cadets in the several departments of their studies in which they were examined.

At the request of the superintendent, a committee, appointed by order of the Board, assigned the subjects to each individual of the class, in order to avoid all suspicion of the examining professor having adapted the subject to the capacity and attainments of the cadets, so as to exhibit an appearance of greater proficiency than the class really possessed.

The first class was examined in military and civil engineering, in mineralogy, rhetoric, ethics, and constitutional and national law, and in infantry and artillery tactics, and in each of these departments exhibited proofs of their application and attainments, and of the zeal, capacity, and industry of the professor and assistants. The cadets of this class will leave the academy well fitted to fulfil the great objects of the institution, viz. to introduce into the armies of the United States all the modern improvements in the art of war, and the high state of discipline which distinguishes the best armies of Europe; to disseminate throughout our country a knowledge of military tactics and engineering, so as to furnish the means of rendering our militia, as well as our regular army, an efficient arm of defence in time of war; and to provide officers properly instructed, and fully capable of superintending the construction of fortifications for the permanent defence of our maritime frontier, and of works connected with the internal improvement of the country.

The cadets of the second class were examing in chemistry and natural philosophy, and showed a degree of proficiency very creditable to the professors and assistants who have been charged with their instruction in these departments. The Board would here remark that, in their opinion, it would be expedient to establish a permanent professor of chemistry. The important discoveries made and still making in this department of science, and its application to the useful arts, as well as its connexion with the means of preserving the health of the soldier in camps and barracks, render it important that it should be taught in this academy; and it is obvious that it requires great application, experience, and long practice to teach a science, which must be illustrated by experiments made before the pupil. It is believed to be difficult to acquire the art of instructing youth in any department of literature or science, but it is especially so in those which require skill in demonstrating theories and principles by experiments. Instruction in such branches ought not to be intrusted to officers liable to be frequently removed.

The third class were examined in mathematics and French. There is no institution that we are acquainted with, where this department of science, in its higher branches, is more thoroughly taught than in this academy. The high attainments and unwearied industry of the professors and assistants, together with the great application and capacity of the cadets of the third class, were exhibited throughout the course of this examination in a manner highly satisfactory to the Board.

The examination in French was very creditable to the teachers and cadets of this class. They appear to be well instructed in the grammar of this difficult language, conjugating the regular and irregular verbs very correctly, and they translated it into English with great facility, which is all that is deemed requisite; the principal object of this course being to enable the cadet to consult the best French authors on military science.

As there are at least 160 students to be taught in this language, it is believed by those best acquainted with the subject, that another teacher in this branch ought to be added to those already employed.

The fourth class were examined in mathematics and French. The cadets of this class evinced a degree of proficiency in the elementary branches of mathematics, highly creditable to the gentleman who is charged with this department of their studies. Whatever may be the talents and application of the student, he cannot make any proficiency in this essential department of study, which may be considered as the foundation of all military education, unless his studies are directed by a person not only profoundly versed in the science, but possessed of great experience in the art of instructing youth; and the Board would take this opportunity of remarking, that to remove such an instructer from the academy for the purpose of substituting another, who, whatever his talents and acquirements may be, does not possess the same experience and practice in teaching, cannot but be prejudicial to the interests of the academy, and would be unjust to the cadets.

The Government exacts from them, especially in the department of mathematics, a degree of proficiency which they cannot obtain without the assistance of competent instructers; and they may be exposed to be turned back as deficient, or to be dismissed as incapable of going through the course of studies in the academy, because the instructer provided for them is incompetent or inexperienced.

The Board is induced to make these remarks, from having had before them a late order of the commander-in-chief, containing regulations sanctioned by you, which, if applied to this academy, would seem calculated to affect very materially the instruction of the cadets. It appears to them that the regulation requiring all officers who have not served with their regiments for three years to join their respective corps, as it will remove nearly all the assistant professors from the academy, would be attended with very great inconvenience at any time; and at this period, when the superintendent, who has so long presided over this institution with such signal ability and success, is about to retire, such a change would seriously

embarrass his successor. This embarrassment will be increased by the effect of the regulation, which takes from the superintendent the power of nominating the officers to be detached for that service. He is supposed, from his situation, to be better acquainted than any one else with the acquirements and moral character of the graduates; and as the responsibilty rests with him, it appears but just that he should have the power of selecting his assistants. It is deemed important that the course of studies should be steady, and keep pace with the improvements which daily take place in the progress of science. This would be impracticable if the assistant professors were frequently changed, and selected from officers who graduated prior to the introduction of the improvements now taught in this institution throughout every department of science. Indeed, it would appear advisable that the professors who have evinced so much capacity in imparting instruction to youth, should be offered every inducement to remain, by being permanently attached to the institution, and receiving some additional allowance for services materially affecting the future character and efficiency of the army, and which, if they were rendered in any literary institution in the country, would command much higher pecuniary rewards.

The Board attended the battalion, light infantry, and artillery drills, and had every reason to be satisfied with the instruction of the cadets in their field exercises. They were present likewise in the laboratory when the cadets exhibited their proficiency in pyrotechny, and they subsequently saw them throw shells, and fire at the target with light and heavy pieces of artillery; all which they executed with a precision rarely equalled, and not surpassed in any school of practice in Europe.

This is the more remarkable, from the state of the pieces used for practice. They are very defective, and the Board recommend that the several pieces of ordnance which are required for the instruction of the cadets by their able and scientific instructer, should be furnished of the best quality and most approved constructions.

Much credit is due to the officer charged with the instruction of the cadets in this department. He has compiled a practical treatise on military pyrotechny, and translated an excellent elementary treatise on the forms of cannon, and various systems of artillery, and another on the theory and practice of gunnery, from the French of Professor Persy, of Metz, all of which, with numerous plates illustrating the subjects, have been published in the lithographic press in the academy.

The cadets are encamped two months every year, and during that period are instructed in all the duties of the soldier in active service, in the use of instruments, and in the application of the different branches of science necessary to a knowledge of their profession. Whether this practical course of the application of science to the purposes of military and civil engineering may not be usefully extended, is worthy of consideration.

The library of the academy contains a very valuable collection of works adapted to the peculiar objects of this institution. It is rich in works on military science and on civil engineering, and contains a valuable series of military history, and the best geographical and topographical maps of the states of Europe, to illustrate this important study. It is true that in works on polite literature it is as yet rather deficient, although the selection has been very judicious; but, however desirable it may be to augment the number of volumes on miscellaneous subjects, the real object of the institution must be kept steadily in view; and it will continue to be the duty of the superintendent to purchase, in preference to all others, books relating to the sciences taught in this academy, and to supply the necessary works on architecture, chemistry, geology, mineralogy, and moral science, in which the library is still very deficient.

The philosophical apparatus and astronomical instruments are of the best kind and of the latest invention, but many more are required fully to illustrate the course of natural philosophy.

The building which contains the library and philosophical apparatus is both unsafe and unstable, and the rooms are so small and inconvenient as not to admit of the necessary arrangement and display of them for useful purposes. Many instruments of the philosophical apparatus, which are delicate in their structure and uses, and require to be very nicely and accurately adjusted, are exposed to be injured by the constant and violent shaking of the edifice; and the finer astronomical instruments cannot be used, from the same reason, and from want of space. A large telescope is placed in a detached building entirely unsuited to its uses.

For these reasons, and from the intrinsic value of the books and instruments, the Board recommend the erection of a fire-proof building, with an observatory annexed to it.

Upon a careful and minute examination of the public buildings of the academy, it has been found that they are inadequate to the purposes of the institution, and are not only badly constructed, but entirely too limited to afford comfortable or proper accommodations for the cadets who are lodged in them.

A number of cadets are from necessity crowded into a small room, which must produce a prejudicial effect upon their studies, their morals, and their health. That they have been exempt hitherto from the diseases which are engendered in confined and crowded apartments, is due altogether to the admirable system of internal police and strict attention to cleanliness which distinguish every department of this institution.

There is, besides, a want of accommodations for the assistant professors, and the quartermaster, paymaster, and adjutant are without offices. For all these purposes nearly fifty new rooms are required. The Board would recommend that the superintendent be instructed to furnish a plan of a building, capable of uniting all the accommodations required by the officers and cadets now at the academy, and of being extended whenever the Government may think it expedient to enlarge this institution, and render it proportionate to our vast territories and rapidly-increasing population; and that, whenever it may be thought proper to erect the building now called for, it may be so constructed as to form part of an edifice hereafter to be completed with more extensive accommodations.

On examining into the fiscal concerns of the academy, the Board have every reason to be satisfied that great economy has been exercised in the administration of this department of the institution, and cheerfully bear testimony to the order and regularity with which the books are kept, and the receipts and disbursements accounted for, as well as to the integrity and judicious economy with which the finances of the academy are administered.

There are several subjects, the importance of which is fully understood and acknowledged by the superintendent and academic staff, but which are not taught in this institution, for want of time. In military and civil engineering, it is thought that the following might be introduced with great advatage to the cadets: A course of applied mechanics on the investigation and description of some of the most useful machines employed in the construction of public works. Some practical exercises in the field, such as laying out and throwing up some of the works of a campaign, which are most ordinarily used; batteries, trenches, cavaliers, the manner of conducting saps, the construction of gabions and fascines, &c. and a course of topography as applied to the military reconnoissances; indeed, such is the vast importance of this branch, that a new department, embracing the whole

subject, could not fail to be very advantageous to the military student.

In the department of natural philosophy many important practical illustrations might be advantageously introduced. At present the experimental part of the course is principally confined to the illustration of such facts and general principles as may be established by experiments exhibited in the presence of the entire class. These illustrations are attended with the most beneficial effects, as they serve to make a very forcible impression on the mind of the student; but they are alone insufficient. It is frequently important that the student should not only be acquainted with the name and use of an instrument, but that he should be able to employ it himself. This can only be done when sufficient time is allowed for each student to make frequent use of such instruments, under the immediate direction of the professor.

This deficiency is particularly felt in the course of astronomy, where an intimate acquaintance with the use of instruments and the habit of submitting the data furnished by observation to the process of calculation are essentially necessary to enable the student to apply his theoretical knowledge to useful purposes. The instruction in practical astronomy is altogether too limited; the time which can be devoted to this object being scarcely more than sufficient to permit the professor to make the students acquainted with the objects of the few instruments in the possession of this department. This is certainly a great defect: important lines are frequently required to be established as boundaries between States and territories of neighboring nations, where the accurate use of instruments is of the last importance, and the cadets of this academy ought to be practically taught to use them with perfect correctness.

The principles of strategy or grand tactics might be taught with advantage.

It is true that there is no work treating of those subjects which is sufficiently condensed, and at the same time perfectly unexceptionable in its principles and illustrations; but the same industry and talent which has furnished text-books in other departments of military science, might be employed for this purpose with great success, and furnish a series of lectures embracing a definition of the technical terms employed, and such general principles as admit of the clearest and most exact illustration.

It appears always to have been desirable that cavalry tactics should be taught at a great national military academy. This branch has hitherto been totally neglected, but it has become more essentially necessary since this arm has been added to the regular army of the country. The service of cavalry and horse artillery ought to form a part of the practical instruction of this academy, and the Board respectfully recommend this subject to your consideration. As the cadets are now occupied sedulously every hour of the day in the prosecution of the studies now taught in this institution, it will be necessary, if these subjects are deemed of sufficient importance to be added to the present course, that the term of the academic study should be extended, or the qualifications required on entering the academy should be made much greater than they now are. They are lower than is required by any literary institution in this country, and no doubt the frequent dismissal of those young men who cannot keep up with their class arises principally from this cause. Parents ought to be informed of the great advantage their sons would derive the first year of their course at this academy, by being well grounded in the classes in arithmetic and algebra, and in the rudiments of the French language.

The manner in which the cadets are furnished with clothing was a subject of inquiry by the Board, who were satisfied that this was done in the most economical manner. Their mess-room was inspected while the cadets were at their meals, and the Board were satisfied that the steward fulfilled his contract faithfully, and supplied the tables with abundance.

An inquiry having been made into the manner in which the cadets are supplied with the class-books and stationary, the Board are satisfied, after a complete investigation, that the cadets are supplied with all such articles at a lower price than they can be purchased for in New York, and on the most convenient, just, and economical manner, and that the arrangement made by the superintendent in this particular is marked by the same prudent economy, order, and intelligence which characterized the management of the institution.

The Board having learnt that the present superintendent of the Military Academy, whose health has suffered from his close attention to the affairs of the institution, has been called to the performance of other duties, cannot forbear to express the very high sense they entertain of his merit and services, during the long period of his command at this station.

To the knowledge acquired with this view by Colonel Thayer, the Military Academy of the United States owes its present admirable organization; and to his zeal, capacity, and unwearied attention to his duties, is to be attributed the high state of discipline and improvement of the institution. To his exertions we owe, in a great measure, the success of this establishment, the extensive usefulness of which needs only to be understood by the nation to be fully appreciated.

Independently of serving to disseminate over the vast territories of the United States knowledge of a description which cannot enter into the usual course of studies in other academies, and furnishing the means of rendering most effective our army and militia, of securing our frontier, and improving the communication throughout the States, it is calculated to elevate the moral state of the military profession in our country, the importance of which to the general interests of the nation cannot be too much insisted upon.

The annals of history prove that success in arms is one of the most fruitful sources of personal popularity; and in a country where the soldier is still a citizen, and may be called upon to share in the civil government, or rise to the highest honors of the state, the standard of study and discipline cannot be too high, which develops his talents and forms his character. The same annals shows that, at the close of successful wars, the liberties of a country depend, in a great measure, upon the character of its armies; at such a period, the fortunate soldier possesses power, and great, and, probably, well-earned popularity; and if his character is not as elevated by nature or education as to lead him to prefer the solid fame of having preserved the liberties of his fellow-citizens to the glitter of false ambition, and to sacrifice all personal views of aggrandizement to the good of his country, he may plunge the state into anarchy, or rivet upon his fellow-citizens the chains of despotism. If ever the liberties of the states of Europe shall be recovered, it will be effected through the improved condition, character, and education of their officers and soldiers; and while we indulge the hope that the liberty of these States rests upon too firm a basis to be overthrown by the ambition of those who compose our armies, it cannot be concealed that, if they were not instructed, their ignorance and depravity might seriously endanger the peace of the country.

The Board have observed with some regret that the old works in the neighborhood of the academy have been, in some instances, disturbed. They ought, in their opinion, to be preserved as monuments of the glorious struggle which secured our independence. The contemplation of such memorials cannot fail to have a beneficial effect. They are calculated to inspire all Americans with senti-

ments of exalted patriotism, and to remind them of the extraordinary efforts and great sacrifices made by our forefathers to achieve the liberty and independence of the country, and cannot fail to lead them to form virtuous resolutions, and to reflect that, as heirs of the immortal fame of their ancestors, they are bound to emulate their glorious career, and preserve their bright inheritance with the same inflexible courage and undeviating purpose.

STEPHEN VAN RENSSELAER, *Prest.*
JOHN FORSYTH,
JOSEPH C. YATES,
JAMES FENNER,
JOHN A. TOMLINSON,
FRANCIS B. POVALL,
RICHARD POLLARD,
GEORGE READ,
JAMES RODGERS,
CHARLES COFFIN,
J. R. BURDEN,
I. S. SKINNER,
LEVIN GALE,
JAMES RUSSELL,
T. HARTLEY CRAWFORD,
E. BANKS,
JOHN R. FENWICK, *Brig. General.*
JAMES BANKHEAD, *Col. U. S. A.*
J. R POINSETT,
ERASTUS ROOT,
JOHN NORVELL, *Secretary.*

REPORT OF THE CHIEF OF THE TOPOGRAPHICAL BUREAU.

TOPOGRAPHICAL BUREAU,
October 19, 1833.

Hon. LEWIS CASS, *Secretary of War:*

SIR: In obedience to your instructions of the 30th August last, I have the honor to submit to you—

1st. A statement, marked A, exhibiting the amount drawn from the Treasury Department, and remitted to the disbursing officers under this bureau, from the 1st October, 1832, to the 30th September, 1833, inclusive, and also of the amount of accounts rendered.

2d. Statement, marked B, exhibiting the amount of money drawn from the Treasury, under special acts of Congress, for surveys; to whom remitted, and the amount disbursed.

The topographical and civil engineers have been employed upon, and the funds appropriated for surveys for the year 1833 have been applied to, the following objects, viz.

1. In surveying the country between the waters of St. Andrew's bay and the river and bay of Chattahoochie, and between Pensacola bay and Bon Secour, along the northern coast of the Gulf of Mexico, with a view to ascertain the practicability and cost of canals, to connect said bays and rivers, under the act of Congress of July 4, 1832.

2. In surveying the route for a road in the Territory of Arkansas, from a point opposite Memphis, to the house of William Strong, or some other point on the St. Francis river, under the act of March 2, 1833.

3. A brigade of engineers was directed to make a survey of White and St. Francis rivers, in the Territory of Arkansas, under the act of March 2, 1833. After repairing to Arkansas for the purpose of carrying the object of the act into effect, it was found to be impracticable, on account of the rise of the waters of those rivers, and the approach of the sickly season.

4. An examination of the Arkansas river, in compliance with the provisions of the act of Congress, approved July 3, 1833.

5. A survey of a route for a road from Chicago, on Lake Michigan, to Fort Howard, on Green Bay.

6. A survey of Portland harbor, Maine, with a view to the erection of a breakwater.

7. A survey of Provincetown harbor, Massachusetts, with a view to the erection of fortifications for its defence.

8. A survey of Throg's point, New York, with a view to the erection of fortifications for the defence of the city of New York.

9. A reconnoissance of a route for a railroad across the southern part of the State of Vermont.

10. A survey of Burlington bay, Vermont, and Port Kent and Plattsburg harbors, New York, with a view to their improvement.

11. A survey of Vermilion river, Ohio, with a view to its improvement.

12. A survey between the Pearl and Yazoo rivers, Mississippi, with a view to their connexion by a railroad or canal. Also, a survey of the Yazoo pass, in the same State.

13. A survey of the southern shore of Lake Huron, and the eastern shore of Lake Michigan, in the Territory of Michigan.

14. A survey of the Potomac river, from Georgetown to Alexandria, with a view to its improvement.

15. In completing the report and drawings of a survey of a canal route from Connecticut river to Lake Winnipiseogee, New Hampshire, by the way of the Oliverian and Baker's rivers.

16. In completing the drawings of a canal route, to unite the waters of Lake Champlain with those of the Connecticut, by the valleys of the Onion and Wells's rivers, in the State of Vermont.

17. In completing the report, maps, and estimates of the Taunton and Weymouth canal.

18. In completing the drawings of the reconnoissance of the sounds of North Carolina.

19. In completing the drawings of a survey, in order to ascertain the military defences of St. Mary's river, Maryland.

20. In completing the drawings of a survey of Georgetown harbor, South Carolina, with a view to its military defence.

21. In making an estimate of the cost of constructing a canal to connect the waters of the Atlantic with those of the Gulf of Mexico.

22. In completing the reports and drawings of the survey of a route for a railroad from Williamsport, Pennsylvania, to Elmira, New York.

23. In completing the report and drawings of a route for a railroad from New London, Connecticut, to Worcester, Massachusetts.

24. In completing the report and drawings of a survey for a route for a railroad from the Hudson river to the Portage summit of the Ohio canal.

25. In completing the report and drawings of the survey of the Neversink river, New York.

26. In completing the report and drawings of a route for a railroad from Stonington, Connecticut, to Providence, Rhode Island.

27. In completing the surveys, reports, and estimates of a route for a railroad from Mad river to Lake Erie, in the State of Ohio.

28. In surveying the Monongahela river, with a view to its improvement.

29. In superintending the construction of the Boston and Providence, Baltimore and Susquehannah, and Paterson and Hudson railroads.

30. In superintending the construction of the Potomac bridge.

31. In superintending the construction of the aqueduct across the Potomac river.

32. In paying the salaries of the civil engineers and

agents employed on several of the foregoing items of duties.

Having concluded these details, allow me again to call your attention to the necessity, so severely felt, of a reorganization of the corps of topographical engineers.

I have had the honor previously of laying before you statements which have fully demonstrated both the economy and importance of the change proposed, and have had the satisfaction of seeing, in your annual reports to the President, that these expositions and recommendations met with your decided approbation. And, in addition to the reasons for this measure, heretofore submitted, allow me now to add the increased necessity for an accurate survey of our extensive Western lakes, now so much frequented, and of which comparatively so little is known. I will also, on the same account, allude to the survey of the coast. As this work progresses, additional aid will be required, and we are at this moment without the means of furnishing to the highly scientific gentleman who superintends it the number of assistants required to prosecute the work with all the vigor which even the present condition of its operation admits.

The military committees of both Houses of Congress have also, for several years past, reported bills embracing the most desirable views on this subject, but which, from the press of more important questions, were not prosecuted to the ultimate consummation of law. Under these circumstances, I may be pardoned for not again repeating these detailed exhibitions, and may be allowed to state, in general terms, that the present corps of topographical engineers consists of six majors and four captains. To these we have been obliged to add, by details from the army, twenty lieutenants from other corps, and also have been obliged to employ thirteen citizens in the capacity of civil engineers, who are paid out of the appropriations for surveys. And yet, for want of means, we have had to postpone surveys in several highly interesting localities.

The form of organization proposed, and which has received the sanction of the reports of the military committees, is that of a regimental organization, which has also the advantage of harmonizing with our existing military establishments, and, by that, will save the proposed corps from the reproach of endeavoring to obtain for itself any undue advantages in points of rank and promotion.

This organization will embrace one colonel, one lieutenant colonel, two majors, ten captains, ten first lieutenants, and ten second lieutenants. To these might be attached, if required, ten brevet lieutenants from the Military Academy, according to the existing laws. And, as the duties of the corps require its members to be mounted, I will respectfully suggest the propriety of its being allowed the pay and emoluments of dragoons.

It is highly important, in a corps of this kind, that appointments in it should made from those who have received an education adapted to its duties, and have served a probationary term: on these accounts, the ten attached brevets become an interesting feature in its organization.

Allow me also to call your attention to the propriety of obtaining some authority from Congress, by joint resolution or otherwise, for diverting a part of the appropriation for surveys to geological investigations, and to the construction of a geological map of the United States. Few subjects connected with the duties of this bureau open so many and so important national advantages, or are adapted to redound more to internal commercial prosperty and to national scientific fame. It is the development of these great resources of wealth and commercial intercourse, which now lie inert and buried in the bowels of the earth, and in which the few partial investigations which have been made exhibit our country as being so extremely rich. The propriety of artificial roads and canals may, in many cases, be considered as entirely dependent upon them, or as the mere machinery by which they are brought into being and activity.

Already have the results of individual enterprise and scientific devotion brought much of this hidden wealth to our knowledge; but these efforts are but partial, and have their limit in the limited means of individuals. Such extensive resources as we are represented to possess, in this respect, can be correctly developed only by national encouragement of a regular system of scientific investigation, pursued with steadiness and intelligence, and its results fairly exposed to the efforts of our enterprising countrymen.

For these purposes, permission to devote five thousand dollars per year of the appropriation for surveys will probably prove sufficient.

Respectfully submitted.

JOHN J. ABERT, *Tbp. Eng.*

REPORT OF THE PAYMASTER GENERAL.

PAYMASTER GENERAL'S OFFICE,
Washington City, Nov. 28, 1833.

SIR: I have the honor herewith to present a statement of the operations of the Pay department for the fourth quarter of the year 1832, and for the first, second, and third quarters of the year 1833.

From this statement it will be seen that the funds advanced to the officers of this department within the fiscal year, for the payment of the regular troops and the militia, together with the unexpended balance of previous advances, amount to $2,288,472 54, and that but $37,354 58 remain to be accounted for. I am officially informed that Paymaster Massias has expended the balance reported against him, and that his accounts will be forwarded in a few days, which will reduce the amount to be accounted for to $14,701 40. This balance is in the hands of the late Paymaster Wetmore, who resigned on the 1st of May. He claims credits to which the accounting officers do not think him entitled, and will probably require the disputed items to be decided by a court of law.

The duty and responsibility of the officers of this department have been unusually heavy the past year, in consequence of being required by a late act of Congress to pay the large body of militia called into service. I was fearful that it would be impossible for the department to perform this duty without delaying settlements with the regular troops to periods that would produce serious inconvenience and much complaint; but I am happy to state that, through the ability and indefatigable exertions of the officers employed in paying the militia, the regular troops have suffered less inconvenience than was anticipated, and, in my judgment, much less than it would be prudent to expect hereafter. It therefore becomes my duty respectfully to invite your attention, and, through you, the attention of Congress to this subject.

When the military establishment was reduced in 1821, fourteen paymasters were retained, and one for the engineer corps and West Point; since then, the number of troops has increased 700, the number of posts is near one-third more, and the annual disbursements half a million of dollars greater than they then were, while the number of paymasters remains the same; and, in addition to the increased duty in paying the army, they are now required to pay the militia whenever called into service.

It is not in the power of the department, with the present number of paymasters, to indulge them with furloughs, as other officers are; and great inconvenience is felt if one is prevented by sickness, or any other cause, from performing his duty.

Under such circumstances, I earnestly solicit you, sir, to recommend to Congress to provide by law for the appointment of three additional paymasters; also, to amend the law requiring paymasters to select clerks from the rank and file of the army, (where suitable qualifications

cannot always be found,) and to authorize the appointment of citizens, with salaries not to exceed $500 per annum. Respectfully, your obedien' servant,

N. TOWSON, *Paymaster General.*

Hon. LEWIS CASS, *Secretary of War.*

REPORT OF THE COMMISSARY GENERAL OF SUBSISTENCE.

OFFICE OF THE COMMISSARY GENERAL OF SUBSISTENCE,
Washington, Nov 21, 1833.

SIR: In conformity with your instructions of the 30th August ult., I have the honor to present a statement exhibiting the moneys remitted and charged to contractors and to the disbursing officers of this department, in the first, second, and third quarters of the year, together with the balances in possession of the latter on the 31st of December 1832, amounting to - $367,829 93

To which is to be added the amounts due them on the settlement of their accounts - 296 66

Aggregating - - - - 368,126 59

The amount accounted for during the same period, is - - - - - 311,244 87

Leaving a balance of - - - 56,881 72

From which is to be deducted this sum, charged to Captain James Monroe, late of the army, being in suit - $4,319 94

This sum, being a balance due by Lieutenant A. H. Morton, 31st December, 1832, - - 902 85

Also, this sum, due by Lieutenant R. W. Burnet at the period of his resignation, - - 219 39

Making together - - - 5,442 18

And leaving - - - - $51,439 54

actually in the hands of the assistant and acting assistant commissaries, applicable to the expenditures of the fourth quarter of the year, and being $14,328 60 less than the balances on the 31st December, 1832.

Of this sum, $51,439 54, $13,600 were remitted to distant posts so late in the third quarter as to render the accountability of it in that quarter totally impracticable.

In opposition to the amount charged to Captain Monroe, and in suit, he alleges to have claims more than sufficient to expunge it; and should a decision of the case be favorable to Government, the security given by Captain Monroe for the debt is considered perfectly ample.

The pay of Lieutenant Morton was placed under stoppage the moment that he failed to render his accounts with that regularity required by the act of Congress concerning the disbursement of public money. Should, however, the amount stopped be inadequate to cover the charge, the securities in this case, as well as in that of Lieutenant Burnet, are equivalent to the amounts due.

During the period embraced in the statement, 123 officers have disbursed the moneys applicable to the commissariat, of whom there are only seven whose accounts have not been received, and they stationed at remote posts; and although it is highly probable that they may reach the office in a few days, yet their reception would not materially affect the result presented; and it is confidently believed that the operations of the year will terminate without the loss of a single cent to the Government in this branch of its service.

Very respectfully, your most obedient servant,

GEO. GIBSON,
Commissary General of Subsistence.

HON. LEWIS CASS, *Secretary of War.*

REPORT FROM THE ORDNANCE DEPARTMENT.

ORDNANCE OFFICE,
Washington, November 15, 1833.

SIR: In obedience to your order of the 30th August last, I have the honor to transmit a report of the general result of the proceedings and operations of this department between the 1st October, 1832, and the 30th September, 1833.

The papers marked A and B present a general view of these concerns during the last-mentioned period, as well in regard to the amounts of the expenditures under the several heads of appropriations, as in reference to their objects, and to the various ordnance stations where they have been made.

The first of these, A, shows the whole amount of funds remitted from the Treasury to disbursing officers and contractors in this department, during the year 1832, to have been - - - - $869,820 36

That the portion of that sum which was expended and accounted for, during the same period, amounted to - - 836,816 00

And that, at the close of that year, there remained unexpended, and in the hands of disbursing officers, the sum of - 33,004 36

A balance which, it may be proper to remark, was promptly liquidated by the responsible disbursing officers early in the first quarter of 1833.

Statement B exhibits the total amount of funds remaining in the hands of disbursing officers at the close of the year 1832, and which have been remitted to them and to contractors during the first, second, and third quarters of the year 1833. This amount will be seen to have been - - - - $806,714 28

And the portion of this sum expended, and for which accounts have been rendered during the same period, will be seen in the same statement to have amounted to 732,661 05

The unexpended balance exhibited in the same statement as being in the hands of disbursing officers at the close of the third quarter of 1833, having been - $74,053 23

Statement C presents a view of the general results of the operations at the several arsenals and armories of the United States, in the manufacture, repair, and purchase of some of the principal articles of ordnance, ordnance stores, and building materials. It exhibits the result of these operations to the extent to which they have been completed during the year, between the 1st October, 1832, and the 30th September, 1833, indicating, among other articles of ordnance and ordnance stores, which have been fabricated or procured, the following, viz.

Of artillery, 212 32-pounder cannon; 1 42-pounder casemate carriage; 1 32-pounder casemate carriage; 9 24-pounder casemate carriages; 17 24-pounder barbette carriages; 5 10-inch seacoast mortar beds; 77 field artillery carriages, complete.

Of small arms manufactured at the national armories, 25,291 muskets, complete; 3,290 Hall's rifles.

Of accoutremen's for small arms, about 4,550 sets for for infantry, 2,031 sets for riflemen, and 1,260 sets for cavalry.

Statement D shows the extent of the operations, during the year, between the 1st October, 1832, and the 30th September, 1833, which have occurred in procuring ordnance and ordnance stores, under the act of 1808, for arming and equipping the militia of the States and Territories. This statement presents also a view of the expenditures under the act, which have resulted during the same period in procuring the stores, amounting for all objects to $231,144 05.

It exhibits, among other articles of ordnance stores procured, 67 field carriages with their implements, complete; 11,180 muskets, complete; 1,500 Hall's rifles; 4,549 sets infantry accoutrements; 1,900 sets rifle accoutrements, and 1,085 (pair) holsters.

Statement E exhibits the amount of ordnance and ordnances, valued in muskets, which have been apportioned for the year 1832 to the several States and Territories, under the act of 1808, for arming and equipping the militia. This apportionment being founded on the most recent returns of the strength of the militia, as made by the Adjutant General of the militia of the several States to the Adjutant General of the army.

Statement F shows the several articles of ordnance and ordnance stores which have been distributed to the militia of the States and Territories during the year between the 1st October, 1832, and the 30th September, 1833.

Statement G presents a view of the quantity of the munitions of war issued by this department during the year between the 1st October, 1832, and the 30th September, 1833, to the army and the Engineer department. In this it will appear that 28 24-pounder iron carriages, with equipments complete, 497 small arms, and 1,135 sets of infantry accoutrements, are among the principal articles issued.

Statement H exhibits the operations of the public lead mines during the year ending 30th September, 1833; and statement I, the quantity of lead made at these mines in each year, from the year 1821 (when their superintendence was transferred from the Treasury to the War Department) to the 30th September, 1833.

By these statements, it will appear that the quantity of lead manufactured during the last year amounts to -	7,941,792 lbs.
Which exceeds the production of the preceding year by - - -	3,659,916 "
That the rents which have accrued during the past year amount to - -	472,645 "
Being an excess over the production of the last year, of - - -	233,747 "
That the whole quantity of lead manufactured at the mines since their control has been transferred to the War Department, amounts to - - -	63,845,740 "
And that the rents which have accrued since that period amount to - -	5,246,839 "
Of this quantity,	
First. There have been issued to the Engineer department, to be used in the construction of the fortifications,	2,021,702 "
Second. There are due to the United States yet to be collected - -	211,094 "
Third. There are deposited in store at the mines - - - - -	131,277 "
And the remainder, amounting to -	2,882,766 "

has been issued at various periods since 1821, from the stores of the mines, for service at the armories, arsenals, and depots.

Although, from this statement, the utility of the mines to the Government is obvious, yet the retaining possession of the lands on which they are situated, is scarcely a secondary consideration, when contrasted with the benefits to be derived from their permanent settlement by persons engaged in the various pursuits of life. As such settlement appears to be universally desired by the inhabitants of the mineral regions, and as it is confidently believed that the sale of the lands would cause the country to be immediately and densely settled by a population which would give confidence and security to the frontier settlement, I would therefore respectfully recommend that the earliest measures be taken for the sale of the mineral lands, and that the rights of pre-emption be secured to the present occupants.

Should it not, however, be the present policy of the Government to dispose of the mineral lands, some further legislation, in regard to mining, will be necessary, as the act of the 3d of March, 1807, containing all the authority on the subject of lead mines, has no reference to those of copper, yet discoveries of copper ore have been recently made in the Territory of Michigan, and elsewhere, and are now beginning to attract attention. And if it be thought desirable to ascertain their value, which can alone be done by practical operation, a law authorizing the mines to be leased will be necessary.

The lead-mine region has been extended to the west bank of the Mississippi, and greatly enlarged by the treaty of 21st September, 1832, with the Sac and Fox Indians. The lands ceded by that treaty embrace the mines hitherto denominated "Dubuque's Mines," which are supposed to be rich in mineral ore, although as yet they have been but partially wrought.

The operations at the national armories, and at the various arsenals of construction and deposite, during the past year, have been conducted with improved ability and economy, and have been followed by the most satisfactory results. This may be also said with regard to the business of collecting the materials and erecting the necessary workshops, storehouses, and magazines on the sites adopted for the arsenal in Florida, on the Appalachicola, and for the arsenal in the Territory of Michigan, near the city of Detroit, which were authorized by the acts of the 5th of April and of the 28th June, 1832.

The former of these arsenals will occupy a healthful eminence on the left bank of the Appalachicola, near the junction of the Flint and Chattahoochie, and at the distance of about sixty-five miles from the mouth of the Appalachicola. It will have all the advantages of steamboat navigation to the seacoast, and all the facilities of transportation presented by the great mail route passing the site of the arsenal, and traversing the territory from St. Augustine to Pensacola.

The new arsenal in the Territory of Michigan will be situated upon a high sandy ridge, on the right bank of the river Rouge, and on the great road from the city of Detroit to Chicago. It will be built at the distance of ten miles from Detroit, and at about fifteen miles to that city by the river Rouge, which is navigable to the site of the arsenal during nine months of the year. These two arsenals are principally intended as places of deposite and repair; but they will be constructed in such a manner as to enable their operations to be so extended (whenever any emergency shall require it) as to make them also places of construction.

The arsenal on the river Rouge will be a source for supplying munitions of war to the militia and military posts of the Northwest and Michigan Territories, and to the militia of the northern parts of the States of Illinois, Indiana, and Ohio. It is intended to replace the old depot of munitions of war, hitherto inconveniently situated in the city of Detroit, and which will be abandoned so soon as the new arsenal buildings are sufficiently advanced to receive the munitions now in depot.

The superior facilities for the transportation of munitions of war, which are afforded at all seasons, from the city of New York to the various important points of the seacoast—the fact that the communication by the North river with the great arsenal at Watervliet is annually closed by ice during four months of the year, joined to the absolute necessity of new buildings, having due reference in their construction to the new fortifications now progressing within the harbor of New York, render it necessary to establish a small depot on Governor's island, from which supplies might be furnished to the South when the North river is closed, and which would also be adequate to all the exigencies of the service within the harbor.

The position of the St. Louis arsenal, in the State of Missouri, near the city of St. Louis, on the right bank of the Mississippi, and the advantages of communication afforded by that river and its tributary streams for the supply of munitions of war to the States on the Upper and Lower Mississippi, render it necessary that this arsenal should be one of the largest class, and that it should be accommodated with the enlarged means which are proportioned to its great natural advantages, and suited to the accomplishment of all the purposes of construction, repair, and deposite. The general arrangements for its completion have been made, and the funds necessary for the year 1834 have been asked for in the estimate.

Of the appropriation of $100,000 for the armament of the new fortifications, which has been annually made since the year 1827, the sum of $85,000 has been allotted to the foundries during each of the two last years for the manufacture of cannon and artillery projectiles; while the balance ($15,000) of the appropriation during each of those years has been assigned for the manufacture of gun carriages, mortar beds and their equipments, for the seacoast, and for procuring the necessary supply of timber for seasoning, that, in the event of any emergency, the operations at the arsenals for the armament of the fortresses may be extended without unnecessary delay. By this assignment of the appropriation, it will yield, annually, about one hundred and eighty cannon of the heavier calibres, thirty seacoast gun-carriages, with their implements and equipments, and one hundred sets of timber for the same.

It has been determined to apply a partial armament of one heavy battery to all the new fortifications which may be occupied by the army; and in the accomplishment of this object, Fort Jackson, commanding the passes of the Mississippi to New Orleans, and Forts Wood and Pike, controlling those to that city by Lake Ponchartrain, have been armed each with one battery of twenty-four pounders; the same having been also effected with regard to Fort Monroe, Virginia, and to Fort Moultrie and Castle Pinckney, in the harbor of Charleston, South Carolina.

The very superior pattern, manufacture, and material of these armaments, enable them to fulfil all the conditions of seacoast defence which are required by the construction of the new fortifications.

The complete armament and equipment of the corps of artillery and infantry have been effected during the last and the present year, with small arms and accoutrements of the most recent and improved pattern, and of a superior quality of material and manufacture.

It is inferred from your letter to this office of the 23d ult., and from the results of the investigations you have directed to be made into the processes and practical effects of the existing system for the settlement of the property accounts of this department, that you are now assured of its inadequacy, and of the utter impossibility of its attaining, without additional legislative aid, that vigor and efficiency which are so necessary to prevent extensive waste and ruin in the vast and increasing amount of public property which is intrusted to the agents of this department.

I have now the honor to submit, agreeably to your orders of the 23d ult., such views as may have a tendency to remedy the serious inconveniences to which your attention has been directed.

It is well known that the high state of perfection which has been attained in the settlement of all accounts of disbursements, is mainly attributable to the beneficial operation of the "Act concerning the disbursement of public money," approved 31st January, 1823, and to that of the "Act to prevent defalcation on the part of the disbursing agents of the Government, and for other purposes," approved 25th January, 1828. A law, therefore, applicable to the settlement of the property accounts of the Ordnance department, and similar in its provisions to this last, together with the adoption of the regulations on this subject, which you have directed to be drawn up and submitted to the Board of Ordnance, would remedy all defects in the existing system for the settlement of the property accounts.

I have the honor to state that the new regulations which you directed to be drawn up in this office for the government of the Ordnance department, have been completed agreeably to your general instructions, after diligent investigation of the subject; and, it is hoped, in such manner as to combine all the advantages of experience and general knowledge which may be required to govern the extensive operations of this department with the necessary system, and to impress them with the requisite energy and efficiency.

Agreeably to your orders, the proposed regulations have been submitted to a board of experienced field officers of the corps of ordnance, the result of whose deliberations, after having been reviewed in this city, together with the regulations drawn up in this office, were submitted on the 1st instant, for the action of the board of ordnance now assembled in this city, and of which the major general commanding the army is president.

I have the honor to be, sir, your obedient servant,

GEO. BOMFORD,
Colonel of Ordnance.

Hon. Lewis Cass.

REPORT OF THE COMMISSARY GENERAL OF PURCHASES.

Commissary General's Office,
Philadelphia, October 10, 1833.

Sir: In obedience to your instructions, dated on the 26th of April and 27th of September, 1833, I have prepared and have now the honor of enclosing my moneyed estimates for 1834, marked A and B, as follows, viz.

A. For clothing, camp equipage, &c. for one year, ending 31st October, 1835, -	$280,748 01
B. For the expenses of the Commissary General's office, for the year 1834, -	7,050 00
Total, -	$287,798 01

I likewise enclose six statements No. 1 to 6, prepared by order of the War Department, as follows, viz.

No. 1. Of moneys drawn from the appropriation for the Purchasing department (for 1833) during the three first quarters of 1833;

No. 2. Of moneys received and disbursed during the three first quarters of 1833, on account of the Purchasing department;

No. 3. Of moneys received and disbursed during the three first quarters of 1833, on account of furnishing the regiment of United States dragoons with clothing, equipments, &c.;

No. 4. Comparative statement of the cost of clothing, &c. for the United States army during the years 1832, 1833, and 1834;

No. 5. Statement of the cost of clothing for the United States army during the year 1834; and,

No. 6 List of persons employed in the Purchasing department during the year 1833, showing the amount of compensation allowed to each, and the state or country in which he was born.

I have not deemed it safe to make any deduction from the moneyed estimate for supplies of clothing, &c. that may remain on hand after the issues for this year have been made, not knowing to what extent orders may have to be drawn on the supplies in store and to be in store previous to the termination of the year.

The orders for the recruiting service, in addition to the full supplies for the respective regiments, having greatly increased the issues beyond the amount anticipated, leaves a doubt on my mind as to the propriety or safety of making any deduction.

A difference between the cost of some articles of clothing (particularly coats) will be observed in favor of the provision for 1834. The alteration of the uniforms obliged me to pay a high price for those to be provided for 1833. The time and experience afforded by the period of one year, has enabled me to reduce the cost of the coats from 62 cents to 70 cents each.

If any further information is necessary in relation to statement No. 6, I beg leave to refer you to my communications to General Wool and to Major Garland, dated April 9 and 12, 1833.

I have the honor to be, sir, with high respect, your most obedient servant,

C. IRVINE,
Commissary General of Purchases.

Hon. Lewis Cass, *Secretary of War.*

REPORT FROM THE CLOTHING BUREAU.

Clothing Bureau,
Washington, December 2, 1833.

Sir: I have the honor to report, that the clothing furnished the army for the year commencing on the 1st November, 1833, is of greatly superior quality to any which has heretofore been issued, and that the cost has not materially varied. In 1830, the cost of a soldier's clothing, per year, was $31 29; in 1832, $30 55; and in 1834, it will be $30 93.

I am informed by the Commissary General of Purchases, that, owing to a rise in woollens, and the large quantity required to be provided, in consequence of a change of uniform, the effect has been, not only to keep up the price of clothing, but to prevent a portion of the troops from receiving an adequate supply as early in the season as has been customary.

It is proper to remark that the new uniform has given general satisfaction, both as to style and convenience, so far as information has been received at this bureau from the military posts.

Very respectfully,
I have the honor to be,
Your obedient servant,

JOHN GARLAND,
Major U. S. Army.

Hon. Lewis Cass,
Secretary of War.

REPORT OF THE COMMISSIONER OF INDIAN AFFAIRS.

Department of War,
Office Indian Affairs, November 28, 1833.

Sir: Your order of the 30th of August last called on me to furnish an estimate of the current expenses for the Indian department for the ensuing year, which I had the honor shortly afterwards of submitting, and of which the paper marked A, herewith transmitted, is duplicate. The amount of these expenses, as will be seen on reference, is therein stated at one hundred and fifty-one thousand eight hundred dollars, ($151,800)

In pursuance of the tenor of that order, further statements in detail of the various and important concerns of the Indian department, under the superintendence of this office, are now submitted, in which I have endeavored to incorporate every necessary explanation for their clear understanding.

The amount drawn from the Treasury, and remitted for disbursement, under the several heads of appropriation in the Indian department, is succinctly stated in the paper marked B, so far as relates to the three first quarters of the year 1833; as is also the amount for which accounts have been rendered for the same period, under each head respectively, and the several balances that are still to be accounted for, according to the books of this office. The aggregate of remittances for disbursement is therein shown to be $1,765,671 99; of which sum accounts have been rendered, as will be seen, for $1,241,710 08; leaving to be accounted for the amount of $523,961 91.

This balance is in the hands of distant agents, intrusted with the payment of Indian annuities, and specified objects of a miscellaneous character. It is fairly presumable that the non-reception of their accounts in season to be imbodied in this report, may be attributed to the incompleteness of their disbursements, and their very remote points of residence—causes sufficient to occasion delay without obnoxiousness to censure.

Paper C imparts the information required by the order of the department, touching the schools established in the Indian country, deriving aid from the annual appropriation of ten thousand dollars ($10,000) for the cultivation of the Indians. To this is appended the substance of the latest reports received at this office from the different societies and institutions; as also a statement of the measures contemplated in the future management of the above fund, and an account of the disposition which has been made of the education funds, provided for in treaties with several of the tribes. The number of Indian children taught at the schools embraced in this report is eighteen hundred and thirty-five. This is exclusive of one hundred and thirteen (113) Indian scholars at the Choctaw academy in Kentucky, the expense of whose education is derived from funds set apart by the Indians themselves, under treaty stipulations for this specific object. Highly creditable mention, at different times, has hitherto been made of this institution, which, in continuing its usefulness, maintains the reputation it had acquired, and warrants the belief that the provision for its support could not have been more advantageously appropriated.

In a communication from one of the Indian pupils at that academy, it was noted that some of the lads possessed a mechanical turn, and the suggestion was made that, in addition to the usual branches taught at the school, instruction should be given to such as desired it in those handicrafts most required among the Indian tribes. The very respectable superintendent of the academy strongly recommended the measure, and the department, coinciding in the view of benefit derivable therefrom, appropriated five hundred dollars ($500) for the erection of suitable buildings and the procurement of necessary tools. This is, perhaps, the best step that could be taken to dispel the common prejudice of Indians against education, the process of which, being intellectual, is not within the purview of their benighted minds; but when boys, thus instructed, return to their respective homes, their being serviceable will not only give them consideration, but the tuition under which they are enabled to become so will probably come in for its due share of homage and regard. If it were possible to ground the Indians well in the mechanical arts, an immediate and radical change would be made in the habits and character of the race, and civilization would achieve a victory as signal and complete as philanthropy could rejoice at or desire. An extract from the quarterly report of the inspectors of the academy is herewith communicated.

Meantime, improvement, to be effectual, must be gradual. The liberality of the Government in establishing and maintaining Indian schools is productive of much good. Many benevolent societies have also poured in their contributions, to open wider the doors of knowledge, and promote the cultivation of the mind. There

is, in consequence, a perceivable excitement towards learning among the young that has not hitherto manifested itself, and which may be the harbinger of a brighter intellectual day, the precursor of transformation from the savage to the social state. And when the generous policy of the Government, now in the course of operation, shall have effected the concentration of all the Indian tribes west of the Mississippi, the contemplated establishment of district schools in their own country will bring home to their doors the advantages of tuition, and, by diffusing the benefits of education, will be an assured mean of accelerating their propress in the attainment of the blessings of civilized life.

In accordance with the policy of the Government, above adverted to, measures have been taken for the due execution of the treaties concluded with the Shawnees and Delawares, late of Cape Girardeau; with the Kaskaskias and Peorias, the Kickapoos, the Piankeshaws, and Weas, and with the Winnebagoes; all of which were ratified at the last session of Congress; and those tribes, excepting a portion of the Winnebagoes, are now located on the lands set apart for their permanent residence.

The treaty concluded with the Chickasaw nation, also ratified at the last session of Congress, has been put in the course of execution, and an exploring party, conducted by their agent, Colonel Reynolds, has gone to the West for the purpose of procuring land for the future accommodation of their tribe.

Measures have also been set on foot for the execution of the several treaties made with the Pottawatamies, with the Ottawas of the Maumee, with the confederated tribes of the Sac and Fox Indians, and with the united nation of the Seneca and Shawnee Indians, which were ratified at the last session of Congress.

Suitable steps have likewise been taken to carry into effect the treaty concluded with the Menomoneis, to which the New York Indians were also parties, and ratified at the last session of Congress. A delegation has been despatched to examine the country designated for the residence of the latter, and, on their report, a final decision may be expected, to remove either to Green Bay, or west of the Mississippi. Their emigration to the West may possibly be induced by the cordial invitation of those of their nation, already settled in that region, to join them, and by their favorable representation of the fertility of the soil and delightfulness of the climate.

The Cherookees continue, in the midst of increasing embarrassments, to evince the same pertinaciousness on the subject of removal that has hitherto marked their councils, and warred with their best interests. An unfavorable influence on this question is exercised by some of the chiefs, with no very laudable motives, maintained by the rigorous discipline which their despotic structure of internal government authorizes. Notwithstanding this, it is understood that the spirit of emigration is active among the great body of the nation, under the proffers made to them for exchange of residence; and the belief is entertained that at least fifteen hundred will emigrate in the ensuing spring, to seek better fortunes in more fertile domains, and under auspices favorable to their prosperity and increase.

Recent communications from the agent of the remaining band of Wyandots in Ohio, furnish good reason to conclude that their emigration will soon take place. They have lately been invited, in most cordial terms, by their brothers in the West to join them, with such a description of the climate and country as to have produced a great change of sentiment, and a strong inclination to be reunited to their tribe.

Colonel James Gadsden has succeeded in making treaties with the two remaining bands of the Appalachicola Indians, and, upon their removal, Florida will cease to possess an Indian population. The treaties are herewith submitted.

The provisional treaty, communicated to the Senate at its last session, concluded by Colonel Gadsden with the Seminole Indians, will be obligatory on its ratification by that body. The deputation of their chiefs which went to Arkansas to examine their destined country, has returned, and reported favorably upon it for their future residence. The want of an appropriation to defray the expense prevented the removal of most, if not all of them, during the present season. The treaty made by commissioners on the part of the United States with the delegation on behalf of the Seminole nation, and designating the land intended for their occupancy, is herewith communicated.

In the progressive execution of the late Creek treaty, an unfortunate circumstance took place, which has occasioned considerable excitement in the State of Alabama. By a provision of that treaty, all intruders were to be removed from the ceded land until the country was surveyed and the stipulated selections were made. This has not yet been done, and in the interim repeated complaints of gross injustice and cruel treatment towards the Creeks were received by the department. It was represented that, in many instances, they were driven from the lands they had cultivated, that they were unmercifully beaten, that their dwellings were burnt, and that they were compelled to flee to the woods for safety. Under these circumstances of provocation and outrage, the persecuted Indians applied to the Government for that protection guarantied to them by the treaty. Instructions were accordingly issued to the marshal of the southern district of Alabama, couched in conciliating language, to expel the intruders, after giving them reasonable notice to leave the ceded land, and so to execute the order as to occasion them the least possible loss and inconvenience. They had put themselves in the wrong, and it devolved upon the Government to right the injured party. In the discharge of that duty by the marshal, an intruder, named Owen, lost his life by resisting the law of the land. It has been officially represented to the department that, previously to the catastrophe, on his evincing a determination not to yield to authority, he had been expostulated with, and cautioned to forbear resistance; also, that he was armed, and, while in the act of firing at one of the men on duty, was shot in that hostile position. The occurrence, however much to be deplored, seems, from the above representation, to have been avoidable only at the extreme peril of life; and that to the reckless rashness of the individual can alone be imputed the unhappy result of his original trespass.

Under an act of the last session of Congress, to enable the President to extinguish the Indian title to land within the States of Indiana and Illinois, and the Territory of Michigan, commissioners were appointed, and a treaty has been concluded with the united nation of Chippewa, Ottowa, and Pottawatamie Indians, by which they have relinquished to the United States all their land within the said States, and all that was held or claimed by them jointly in the said Territory. The treaty comes particularly commended in the fact of total cession without any reservation, thereby insuring the prompt emigration of the Indians, and serving as a prevention of unjust speculation in their lands.

The commissioners appointed by the act of July 14, 1832, to adjust difficulties in the location of the land of the emigrating Indians, and for other purposes, have happily succeeded in concluding a treaty with the Creeks and Cherokees, whereby the boundaries of the lands of the two nations have been definitively and permanently established, and a long-existing controversy has been terminated to their mutual satisfaction. The treaty is herewith communicated. They have also concluded a treaty with the Quapaws, and assigned them land west of the Mississippi, to induce their removal from the Territory of Arkansas. The treaty has not yet been received at the department.

The commissioners represent the Indians west of the Mississippi to be advantageously situated, and progressing towards civilization with a steady pace. It is grateful to notice that their condition is ameliorated under the policy of removal, and that brighter prospects are opening to the remnants of nations that once spread over the face of this vast continent. It is communicated from the same authentic source, that, protected by the strong arm of the Government, and dwelling on lands distinctly and permanently established as their own, enjoying a delightful climate and a fertile soil, they turn their attention to the cultivation of the earth, and abandon the chase for the surer supply of domestic animals. The transition from a savage to a civilized condition cannot be expected to be instantaneous, and we therefore hail with satisfaction the first indications that denote a willingness to throw off habits peculiar to the forest, and betake to the kindlier occupations of civilized life. The proneness of the Indian to the excessive use of ardent spirits, with the too great facility of indulging that fatal propensity, through the cupidity of our own citizens, not only impedes the progress of civilization, but tends inevitably to the degradation, misery, and extinction of the aboriginal race. Indeed, the substantial benefits of our policy towards the Indian tribes so essentially depend upon the entire exclusion of the means of intemperance from their country, as to warrant the belief that Congress will bestow upon the subject all the interest which its importance is calculated to create. Under that persuasion, a circular was addressed, in May last, to the superintendents and agents of Government, to obtain and transmit to the department all the information requisite for the amendment of the law to prevent the introduction of ardent spirits into the Indian country, and for the adoption of means best calculated to insure its enforcement. The substance of the information, thus acquired, is imbodied in the paper marked D, and may tend to throw light upon the path of legislation, and lead to the enactment of a law that will meet the exigencies of the case, and check an evil of fearful magnitude to the welfare of the Indians, both in a moral and physical view.

The regulations of internal government among the Indian tribes continue nearly the same as they prevailed before the European discovery and settlement of this country. This primitive sway, having reference to a state of society and an order of things wholly different from what is contempleted and advocated by our policy, might undergo modifications material to its success, and greatly to their advantage. But especially does it appear desirable that something, however simple, in the shape of a code of laws, suited to their wants, and adapted to the firt dawnings of the social compact amongst them, should be devised and submitted for their adoption, to obviate the inconveniences and secure the benefits incident thereto, in the relations that are springing up under the fostering care of the Government. Such a cement is required for the cohesion of parts that possess no very strong internal principles of amalgamation; and, without it, the frame of society has always been found to be unstable, and void of that intelligence under which its capacities are brought into beneficial action, and made subservient to individual and general welfare.

Few hostilities have been committed during the past year among the Indian tribes. Tendency to civilization, and the presence of a military force among them, have, in a great degree, repressed their spirit for violence and rapine. A confident hope may be indulged in the propitious issue of the policy instituted by Government for their protection and preservation; and philanthropy may yet exult in the attainment of its noble aim—the enjoyment of the blessings and the practice of the virtues of civilized life by the congregated Indians of Arkansas.

All which is respectfully submitted. E. HERRING.

To his Excellency LEWIS CASS, *Secretary of War.*

[Tables A, B, and C, referred to, are appropriations for current expenses, education, &c.]

CIVILIZATION FUND.

Balance to the credit of this fund, January 1, 1833, - - - -		$7,209 16
Add appropriation for 1833, - -		10,000 00
		17,209 16
Deduct amount of drafts prior to September 30, - - - - - -		7,302 94
Balance, September 30, 1833, - -		9,906 22
Deduct amount paid since September 30, - -	1,572 50	
Amount of allowances for the 4th quarter - -	1,572 50	3,145 00
Estimated balance, January 1, 1834, -		$6,761 22

The annexed tables show the manner in which this fund has been distributed, and the disposition of the sums appropriated by treaties to purposes of education.

The American Board of Foreign Missions have recently completed their establishments among the Cherokees of Arkansas. By the fifth article of the treaty of May 6, 1828, the United States agreed to pay to this society the amount expended by them in the Cherokee country east of the Mississippi, with the understanding that it should be employed in the erection of other buildings, and in improvements within the tract then assigned to this tribe. In fulfilment of this stipulation, 11,615 dollars have been paid to the society, and they have expended 14,128 dollars, considerably more than that sum, at their three stations, Dwight, Fairfield, and the forks of the Illinois. The buildings and improvements at Fairfield, valued at 1,628 dollars, have been purchased by the Cherokees, to be occupied by them for a school, under their own direction, and at their expense. At Dwight the society has erected a dwelling-house for the native girls and their teachers, a school-house for the female, and a separate one for the male scholars, and a third for infants. Very beneficial results may be anticipated from efforts so marked by a spirit of liberal enterprise and comprehensive benevolence.

The school, supported by the Methodist society at Upper Sandusky, in Ohio, has been in operation about twelve years. The school-house is a neat building, and sufficiently large to contain from fifty to sixty pupils. Of the number instructed last year, all, with few exceptions, have been boarded and clothed by the society. Many of them are small, and are learning the alphabet; the larger scholars have made some proficiency in writing, grammar, and arithmetic.

In the report made the last year upon this subject, it was stated that the Baptist General Convention had abandoned their establishment at Tinsavattee, in Georgia, in consequence of the removal of the Cherokees who resided there. They have since completed the erection of all the necessary buildings, and the school is represented to be in a flourishing condition.

The Rev. Mr. Simmerwell, who was stationed at the Carey mission, upon the St. Joseph, in Michigan Territory, "is now in the act of removing to the country beyond the Mississippi, in company with many of the Indians, whom he has instructed," with the intention of recommencing his labors, upon his arrival and settlement there. In connexion with the mission at Thomas, on Grand river, in the same Territory, a school has been maintained at an Indian village about one mile distant. The buildings at the new establishment of this convention, among the Creeks west of the Mississippi, have been finished within the present year, and the children are con-

stant in their attendance, and interested in their studies. The school commenced among the Shawnees the last year, is now in successful operation. The requisite buildings have been erected at considerable expense. The scholars are young, and are acquiring the first rudiments of learning. A missionary, employed by the Baptist Convention, having resided among the Delawares, and gained some knowledge of their language, the board have appropriated a small sum to the erection of a dwelling-house, in which he may receive and instruct children.

From occasional experiments, goods results from this undertaking are confidently expected. A similar enterprise has also been commenced by the board among the Ottoes and Missourias.

In addition to the expenditures for the support of these several establishments, amounting to 11,142 dollars, the sum of 950 dollars has been invested by this convention in a printing press, types, paper, &c "which are now on their way to the Indian country in the West, to be employed in providing elementary books for the natives."

The Methodist Episcopal Church has instituted missions among Shawnees, Delawares, and Peorias, with its own resources, unaided by the Government. For the Shawnees they have erected a dwelling-house and a school-room, and cultivated thirty-eight acres of ground. The Indian agent, Major Cummins, in his report upon the condition of this school, says, "a large portion of the scholars read in the Testament and Bible, write large and small hand, and some of them are studying arithmetic." This school was first opened in May, 1831, but has been twice suspended, in consequence of the Indians deserting their village for fear of the small-pox, which was prevailing among the other bands. In addition to this, a considerable part of the Indians have recently moved here, and settled in the woods, and they consequently have often to keep their children at home to help them to work. These circumstances (adds Mr. Johnson, the superintendent) have very much interrupted their progress in learning; but we hope the period is not far distant when we shall be able to secure a regular attendance. "The school for the Delawares was opened in 1832; the buildings are a dwelling-house and school-house. The number of scholars is increasing, and they attend more regularly than formerly. For the Peorias a school was commenced in June last, and it is now attended by twenty pupils. It is the object of the managers of these three establishments to instruct all the children in reading, writing, and grammar, and in the practical rules of arithmetic, especially the boys; to give to the males, both young and old, a knowledge of every thing necessary "to enable them to obtain a comfortable support by the cultivation of the soil with their own hands; and to teach the women of all ages to manufacture, cut and make all kinds of plain clothing, and also to become decent and virtuous housekeepers."

A gratifying report has been received from the Right Rev. Bishop Fenwick, of Boston, of the condition of the Catholic schools in Maine. One was established at Indian Old Town about six years since, and until the present season the Rev. James Conway, employed as a teacher, "derived his maintenance from the scanty contributions of the Indians themselves, and in return applied himself to the education of their children during the week, in addition to his ministerial duties on the Sunday." In this school there are two classes of boys and girls. Those of the first class are learning to read, write, and cipher; and those of the second, to spell. Two clergymen have been stationed at Passamaquoddy, in charge of the school relinquished by the Rev. Mr. Kellogg. These teachers receive no other compensation than one hundred dollars each, allowed from the civilization fund. Fifty-eight scholars have been collected the present year. This is termed a gratifying report, because it evinces prompt and successful efforts, made under discouraging circumstances, and characterized by singular self-denial, zeal, and benevolence.

The Western Foreign Missionary Society has adopted measures within the last year, preparatory to the establishment of schools among the Indian tribes west of the Mississippi. The Rev. Mr. Smith has visited that region, and, upon his recommendation, the society proposes to commence its operations among the Ioways and Weas. The interviews which Mr. Smith had with these tribes, especially the former, induce the belief that this undertaking will be well received by them, and be productive of great benefits. It is intended to make a beginning this year, and to employ eight persons as missionaries and teachers.

From the Choctaw academy, in Kentucky, the reports are of a satisfactory character, and they are vouched for, not only by the known excellent reputation of the superintendents, but by the board of inspectors appointed by the department. Appended to this paper is an extract of the last communication, which is of peculiar interest, as it shows the commencement of liberal and extensive exertions to give to the pupils a knowledge of the mechanic arts. This extract is accompanied by another from the letter of the attending physician, which contains accurate information of the progress and effects of the cholera at this institution, and furnishes evidence of the existence of severe distress, encountered by great moral energy and benevolence. Prior to the appearance of this disease, the number of pupils was one hundred and twenty-nine. The places of those who died, and of those who have returned to their tribes, their course of instruction being completed, will be filled by new selections.

The removal of the Choctaws to the country assigned to them west of the Mississippi river, having been effected, the investment of the large portion of their annuities which the chiefs have devoted to the purposes of education, has engaged the attention of the department and of the tribe, aided by the suggestions of the agent for the Choctaws, Major F. W. Armstrong, who has applied the energies of an active and disciplined mind to their improvement. A plan has been devised, which has received the cordial approval of the chiefs. With the sum of 6,000 dollars, appropriated for twenty years, by the treaty of 1816, twelve school-houses are to be built, the necessary books purchased, and the teachers paid, the present year. The buildings are to be plain, substantial log structures, and the teachers married men, steady, sober, industrious, and religious, who will take their families with them, and who will devote themselves to their calling. Reading, writing, English grammar, and arithmetic are to be taught to the youths of both sexes. The boys are to be instructed also in the usual arts of husbandry, and the girls in spinning, weaving, and housewifery. With the appropriation of 12,500 dollars, under the treaty of 1830, it is contemplated to establish three schools of a higher order. The approval of this plan and a zealous co-operation in executing it, were to be expected from the chiefs of a tribe which has manifested an earnest solicitude for improvement, from the earliest period of their intercourse with the whites. It is a fact worthy of record, that in 1801 the chiefs of the Choctaws requested to be furnished with agricultural implements, to have a blacksmith settled among them, and women employed to teach their half-breed females to spin and weave. One chief asked for cotton cards, because his people already made cloth; and another complained that a cotton gin, which he applied for the year before, had not been sent to him.

It will be gratifying to the Baptist Convention, by which he is employed, and to the friends of the Indians, to know that Mr. Wilson, who has been teaching the

Choctaws more than four months, has acquired the confidence and esteem of the chiefs and common people, and of the officers of the Government.

From the report of the Indian agent at Green Bay, it appears that there are one hundred and ten scholars at the Protestant Episcopal establishment at that place. These are instructed in the alphabet, spelling, reading, writing, arithmetic, and geography. It is contemplated to set apart a portion of each week, to give to the boys a knowledge of farming and the mechanic arts, and to the girls, of housewifery. The young men on leaving the school, are employed as clerks in stores, or in the Indian trade. If they were acquainted with some branch of mechanism, they could obtain a more permanent and respectable support. The proficiency, health, good order, and cleanliness of the children are highly commended. Mr. Schoolcraft, who is charged with the joint agencies of Mackinac, and the Sault Ste. Marie, represents the number of children at the mission of the American Board at the former place to be eighty-six, including day scholars. Besides the instruction in the usual branches, some of the boys have been taught to keep books, and all the girls have been taught in domestic economy. Since the institution of this school in 1823, 191 children have been received; eight have learned mechanical trades, thirteen have engaged as clerks in the Indian trade; one as interpreter in the Indian department; "none have returned to the forest as hunters;" "tenty-eight have given evidences of piety." At the Baptist mission at the Sault Ste. Marie, only eleven children are now educated from the treaty funds of the Chippewas. As few of them are articled to the society, they leave at their own pleasure, or are withdrawn by their parents. The schools commenced by the American Board at Lapointe, near the head of Lake Superior, contained, in 1832, twenty-five pupils. Branches from it are to be established at three other distant parts of the Chippewa country.

The Methodist Convention, with the consent of the Indians, propose to begin a settlement at the Little Rapids of the St. Mary, at which children will be instructed in the manual arts, and in letters.

At Maumee, Ohio, there is a school for the Ottawas, at which the subagent states that thirty-one children are educated in the various branches, from the alphabet to arithmetic and geograhy; most of those who have left this institution have become farmers; one is teaching school among the Wyandots.

It will be perceived, by an inspection of the table prefixed to this report, that returns have been made from but very few of the schools established among the several Indian tribes. The regulations of the department require that these returns shall be prepared immediately after the expiration of the third quarter of the year, and transmited without delay. All the societies have been apprized of this rule. The repeated disregard of it has obliged the department to determine that, in future, the allowance for one quarter shall be withheld from those associations from which the returns are not received within the prescribed time, unless a satisfactory explanation of the failure shall be made. There is no reason to suppose that the condition of any of these schools has been materially changed during the year, with the exception of that established by the United Brethren among the Cherokees of Georgia. This has been discontinued, in consequence of the right of property in the soil having passed into other hands.

At the date of the last official communication upon this subject, it was hoped that the commissioners appointed to act west of the Missisippi would have devised a system for the advantageous expenditure of the school funds of the tribe in that region. But the pressure of other duties has prevented their doing this. It is not practicable, therefore, at present, to submit any general plan for the object. Recent information, however, has shown the propriety of adopting some regulations in addition to those detailed in the last report.

At many of the schools, the children are nearly all very young, and are engaged in acquiring the simplest elements of knowledge. Others enter the school at a more advanced age. If the former remain until they have grown up, and the latter until they have learned enough to fit them for the ordinary occupations of life, they go forth into the world without pecuniary means, and without counsel, to gain a subsistence for themselves. In many instances the enterprise proves difficult, and the difficulty is disheartening. The effort to succeed is abandoned, and a return to the dwellings and habits of their kindred is the natural consequence. To prevent, if possible, the so frequent occurrence of these evils, it is considered expedient to expend a portion of the civilization fund in furnishing to those youths who may evince a capacity to acquire and take care of property, and a willingness to be usefully employed, some aid in the pursuits they may choose—in agriculture, in the mechanic arts, or in the further prosecution of their studies. That the ability and the disposition to become valuable members of society can be found among these children of Indians, convincing evidence has recently been received. To two of the pupils at the Choctaw academy, one a Pottawatamie of Indiana, and the other a Choctaw, the department has made an allowance, within the last year, to enable the first to attend a course of lectures upon law, and the second to acquire a knowledge of medicine. The names of these young men are J. N. Boursee and William Trahem, jr. They are both pursuing their studies in Kentucky. It is not to be expected that many will be thus ambitious of intellectual culture and progress. But a large proportion of the youths, whose minds have received an impulse in the schools, might doubtless become respectable and useful, as farmers or mechanics, if supplied, upon their departure from the care of their teachers, with means to make a beginning, and judicious advice to guide them to a right use of those means.

Upon the suggestion of a gentleman, whose long and intimate acquaintance with the Indian tribes, and sound judgment, claim for his opinions and representations great confidence, it is deemed necessary to require of the teachers, and all other persons employed at the missionary stations, and in the schools, an entire abstinence from all interference in the management of the political concerns of the Indians.

To render the benevolent institutions established in the Indian country productive of permanent benefit to the tribes, and of useful information to the Government and our citizens, the teachers will also be expected to make annual statistical reports. These reports will state the general progress of the Indians, the number of acres of land cultivated by them, the quantity of grain raised, the quantity of stock, the increase or decrease of population, and every particular of this nature which will be useful.

In conformity with a system of supervision, provided for in the treaty concluded with the Winnebagoes, in 1832, so far as circumstances will permit, the agents for the tribes among whom schools are maintained, have been instructed to visit them at least once in each year, and to transmit detailed reports, showing the condition of the buildings and premises, the studies and improvement of the pupils, and embracing their opinions of the capacity of the children for usefulness, and of the manner in which they should be employed after their course of instruction shall be completed.

One good result, anticipated from this regulation, is, that this attention to one object of common interest will induce a general co-operation between the agents of the

Government and the agents of the benevolent associations, in promoting the intellectual and moral advancement of the Indians. In these visits of inspection the agents will be accompanied, whenever it is convenient and practicable, by officers of the army, or gentlemen of character and influence.

The information which it is the object of these last enumerated regulations to obtain, will enable the department gradually to introduce new improvements in the general system, and accomplish more thoroughly the purposes of the Government, in continuing this annual appropriation for the civilization of the Indians.

ELBERT HERRING.

OFFICE INDIAN AFFAIRS *November* 28, 1833.

Extracts of a report made by the Superintendent of the Choctaw Academy, dated November 1, 1833.

"No department in the arrangement of this institution has excited more admiration, than the recent introduction of workships, connecting practically arts and sciences together." The improvement of some of the youths, in acquiring a knowledge of some of the mechanic arts, has been rapid beyond calculation. About the 1st of September last, I had the buildings for the workships so nearly completed, that I purchased tools, employed suitable workmen, and commenced operations. The wagon shop is a large, comfortable frame building, 35 by 21, with seven twelve-light windows, with one large stove, and six work-benches, calculated for eight or ten hands, if necessary; in this shop wagons, carts, and stocking ploughs will be carried on. The shoe shop is also a neat frame building, 21 by 20, and calculated to employ 10 or 15 hands. In addition, we erected a lumber or store room, 21 by 12, to store away shoes, and a convenient cellar under it for iron and leather. The smiths' shops are two log buildings, one 26 by 20, calculated for two furnaces and four hands, and the other 18 by 20, with one furnace and two hands. The tools are all of the best quality; and although the buildings and tools cost much more than was anticipated, yet I am confident that, for the permanent improvement and civilization of these people, funds were never more profitably expended. "It requires three shoe and boot makers, three blacksmiths, and two wagon makers, to impart the instruction necessary for each shop."

Extracts of the Quarterly Report of the Board of Inspectors of the Choctaw Academy, dated November 8, 1833.

[This communication was not received until this official statement was prepared. It is signed by Messrs. W. B. Stone, J. T. Johnson, J. F. Robinson, S. M. Noel, A. Johnson, A. Brooking, W. Suggett.]

"We cannot sufficiently express our high approbation of the plan of teaching the boys the mechanic arts, as well as letters. We visited the workshops, and were well pleased with the plan of the buildings, but far more pleased with the astonishing proficiency of the boys in the several branches of mechanism. We have never seen them surpassed, if equalled. In the blacksmith's shop, in the shoe and boot makers' shops, and in the wagon maker's shop, we saw industry, attention, and ingenuity displayed." "We are convinced, from the trial made, that the workshops should be extended.

"We recommend that a tailor's shop, a cabinet maker's shop, and such others as the wisdom of Government may direct, should be immediately added to those now in successful operation." "We think the superintendent acted wisely in expending about double the amount he at first expended, in the mechanical arrangements."

Extracts of the Report of the attending physician of the Choctaw Academy, dated August, 1833.

"During the eight years" (in which this institution has existed) "such has been the health of the students, and the strict attention to the sick, that up to the appearance of the cholera only six students died." "The cholera made its first appearance early in June, and ceased about the first of July, during which time six Choctaws, two Seminoles, and one Mionie died." "The Rev. Thomas Henderson, (the superintendent,) and a part of his family, were attacked; consequently, the whole burden of ministering to the sick and dying fell on Colonel Johnson, aided by his black people, and some of the Indian youths, particularly John Jones, a Pottawatamie, to whom great praise is due. It is but justice to Colonel Johnson to say that his exertions, during the day and night, to relieve and comfort the sick, demand the warmest gratitude from all persons interested in the prosperity of the school. He exhibited, throughout this awful crisis, the same intrepidity and firmness as in former scenes of danger." "He was himself twice attacked, once seriously, with cholera, brought on by successive fatigue and watching." "The school has again resumed its operation with renewed vigor; the students have all returned, and for the last two weeks there have been no new cases."

The fourth section of the act of Congress of July 9, 1832, entitled "An act to provide for the appointment of a commissioner of Indian affairs," provides that "no ardent spirits shall be hereafter introduced, under any pretence, into the Indian country."

It was supposed that this general prohibition clause, in addition to the restrictions and penalties imposed by the twenty-first section of the act of March 30, 1802, and the second section of the act of May 6, 1822, would supply adequate means to prevent entirely the sale and use of ardent spirits in the Indian territory. As, however, the act of July, 1832, neither pointed out the course of proceeding, nor prescribed a penalty, all the provisions upon this subject were submitted to the Attorney General of the United States. The opinion of that officer was clear, that, should a case happen under the last-named act, which was not embraced by one of the previous laws, the ardent spirits would not be liable to seizure; and the remedy would be, libelling the article and indicting the offender; and some doubt was entertained by him whether either of these measures would be sustained. The necessity of further legislation was apparent; and with a view to collect information which might aid the deliberation of Congress, the superintendents and agents of Indian affairs were required, in May last, to obtain from the district attorneys copies of the acts of the States and Territories upon this subject, with a statement of the manner and extent to which they were enforced. They were also directed to furnish particular statements of the number of persons engaged in the traffic, of the obstacles to an efficient enforcement of the system of entire exclusion, and of the views of the Indians themselves; and such suggestions as their experience and observations might authorize as to the legal provisions necessary. These requisitions have not been complied with, to the extent desired, and anticipated valuable communications have, however, been received from the agents at Green Bay and in Ohio, and from the agents of the Kanzas, Shawnees, and Delawares, and the Western Cherokees, and from the commanding officer at Fort Smith, in the Arkansas Territory. The substance of these communications will now be presented, and copies of all the papers herein referred to will be prepared, should Congress require them.

It may be well to observe that the Executive, under whose administration the act of 1802 was passed, was of opinion "that the authority of the respective Governments, in which there is such intercourse between the traders and Indians, as to require restrictions on the sale of ardent spirits, can establish such rules as may be necessary to carry the object of the Government into effect."

In consequence of this communication, which was made to Governor Harrison in January, 1804, the territorial Legislature have, from time to time, framed enactments upon this subject. And, at the present day, the legal provisions in the Territory of Michigan are considered by the agent at Green Bay to be sufficiently severe. They have, however, seldom been enforced, two-thirds of the frontier population being either directly or indirectly engaged in the traffic. Two modes of remedying the existing evil are suggested by this officer:

1st. To give to the Indians a separate country for themselves, across the boundary of which neither Indians nor whites shall pass.

2d. For the United States to take the whole Indian trade under their own management.

The laws of Ohio prescribe that persons who sell ardent spirits to the Indians shall be indicted, and impose penalties of fine and imprisonment. The distance of the Indian villages from the place at which the court sit, and the consequent expense, have prevented any prosecution under this law.

The Kanzas, Delawares, and Shawnees, with the smaller tribes of Weas, Piankeshaws, Kaskaskias, and Peorias, are supplied with large quantities of spirituous liquors from the counties of Clay and Jackson, in Missouri, by the French who reside near the mouth of the Kanzas river, and by settlers scattered along the State line. The laws of Missouri impose a fine upon these traders, and various attempts have been made to enforce them, but an instance of conviction under them is not known. The fault is not supposed to be in the court or their officers. But the obstacles have existed in the peculiar opinions and views of the communities, many of the members of which regard this traffic as fair and lawful, and the legal restrictions upon it as arbitrary and unauthorized. The remedy pointed out by the agent for the Shawnees and Delawares, is the establishment of a tribunal in the Indian country, and the preventing both Indians and whites from crossing the boundary line.

The establishment of a court of the United States in the Indian territory, for the trial of persons employed in this business, is also recommended by the intelligent agent for the Western Cherokees. Among these, the number of traders is estimated at one hundred; many of them are white persons, who have married Indian women, who consider themselves exempted from obedience to, or entitled to protection from, the laws of the United States, as their interest may dictate; and who, when they are removed from the Indian country, return, and are sheltered by their Indian relatives. There are four points on the line between the Arkansas Territory and the Indian lands, where large quantities of liquors are sold. At Van Buren, six or seven miles northeast of Fort Smith, more whiskey is represented to be sold to Cherokees than at any other point; and there is another establishment, forty or forty-five miles north of that post, intended to supply the Creeks and northern Cherokees. The general provisions indicated in one of the letters received from this quarter, are, requiring the masters of steamboats and other crafts to make oath that they have no ardent spirits on board; and, if they refuse to do this, searching the vessel and cargo, and seizing the article, if found, and all other property its owner may have on board, and subjecting him to arrest and imprisonment. The same penalties to be imposed upon all persons who sell liquors to the Indians.

From these communications, it appears that the feelings of the several tribes, in relation to this subject, are widely different among the Indians attached to the Delaware agency. Nearly all the principal men are desirous that ardent spirits should be entirely excluded; and some of them have asked why the warriors of their great father were not sent to prevent their introduction. Many of the full-blooded Cherokees, who constitute a small minority however in the nation, are in favor of an absolute prohibition; but the mass of the people have been taught by the half-breeds and whites to regard the restrictions prescribed by the laws as destructive of their rights as freemen. The Choctaws, on the other hand, are now, as they were in 1801 and in 1820, almost unanimously opposed to the introduction and sale of ardent spirits in their country. "We came here sober," said the chief to the commissioners of the United States, in 1801; "we wish to go away so; we, therefore, request that the strong drink, which we understand our brothers have brought here, may not be distributed." And when the treaty of 1820 was concluded with this tribe, it was stipulated in the twelfth article that their agent should have full power to seize and confiscate all the whiskey which might be brought into their nation without his permission, or that of the three principal chiefs of the districts. This stipulation was introduced "in order to promote industry and sobriety among all classes of the red people in this nation, but particularly the poor."

It is respectfully submitted whether a summary process, like that here indicated, before a court instituted in the Indian country, whose judgments should be executed by military force, if necessary, with a prohibition to the offenders ever again to enter the Indian territory, under the penalty of fine and imprisonment, will not be required to check in any degree a traffic which has proved so fatal to the red man, and almost rendered nugatory every provision and every effort to improve his condition.

ELBERT HERRING.

OFFICE INDIAN AFFAIRS, *Nov'r* 28, 1833.

REPORT OF THE COMMISSIONER OF PENSIONS.

WAR DEPARTMENT,
Pension Office, November 27, 1833.

SIR: I have the honor to transmit herewith my reports respecting the business of this office for the year past.

Statement A shows the number of pensioners now on the rolls, under the acts of March 18, 1818, May 1, 1820, and March 1, 1823, and the number of invalid pensioners inscribed on the rolls under various acts of Congress, and the States or Territories to which they respectively belong.

Statement B shows the number added to the pension rolls, under the acts above alluded to, since the last report from this office, in 1832.

Statement C contains the number of deaths since the last annual report.

Statement D shows the number inscribed on the rolls under the act of June 7, 1832, from July, 1832, to the present time.

Statement E exhibits the number of deaths of pensioners under the act of June 7, 1832.

Paper marked F furnishes a brief abstract of the number who have applied for pensions under the act of June 7, 1832; the number admitted; the number rejected; and the number *in transitu*.

Statement G shows the number of pensioners who have relinquished their pensions under the act of March 18, 1818, and have been placed on the rolls under the act of June 7, 1832.

To pay the pensioners under the acts of March 18, 1818, May 1, 1820, and March 1, 1823, there have been sent to the pension agents during the year past, $774,376 88

To pay invalid pensioners, - -	287,134 64
To pay pensioners under act of June 7, 1832	3,547,170 57
	$4,608,682 09

I have the honor to be, very respectfully,

J. L. EDWARDS, *Commissioner of Pensions.*

Hon. LEWIS CASS, *Secretary of War.*

A.—*Number of revolutionary pensioners under the act of 18th March, 1818, and invalid pensioners on the rolls of the different States and Territories, October 15, 1833.*

States and Territories.	Revolutionary act March 18, 1818.	Invalid pensioners.
Maine,	857	154
New Hampshire,	671	178
Massachusetts,	1,324	335
Connecticut,	607	131
Rhode Island,	138	17
Vermont,	856	175
New York,	2,576	994
New Jersey,	360	59
Pennsylvania,	657	346
Pittsburg agency,	291	99
Delaware,	16	17
Maryland,	118	218
Virginia,	623	214
North Carolina,	242	65
South Carolina,	107	22
Georgia,	73	20
Kentucky	451	176
East Tennessee,	146	48
West Tennessee,	129	97
Ohio,	555	165
Indiana,	119	83
Louisiana,	8	32
Mississippi,	9	6
Michigan Territory,	13	41
Illinois,	26	36
Alabama,	35	32
Missouri,	16	60
District of Columbia,	17	55
	11,034	3 875

B.—*Number of revolutionary and invalid pensioners added to the rolls since the 3d of November, 1832, under all the acts, except June 7, 1832.*

States and Territories.	Revolutionary.	Invalid.
Maine,	–	7
New Hampshire,	–	2
Massachusetts,	–	5
Connecticut,	–	1
Rhode Island,	–	1
Vermont,	–	4
New York,	–	4
New Jersey,		
Pennsylvania,	–	9
Delaware,		
Maryland,		
Virginia,	2	2
North Carolina,	–	2
South Carolina,	–	1
Georgia,	–	1
Kentucky,	1	6
Tennessee,	–	2
Ohio and agency		
Indiana,	–	3
Louisiana,	–	1
Mississippi,		
Michigan,	–	2
Illinois	–	1
Alabama,		
Missouri	–	1
District of Columbia,	–	1
	3	56

WAR DEPARTMENT, *Pension Office, November 25, 1833.*
J. L. EDWARDS, *Commissioner of Pensions.*

C.

Abstract from the several pension agents' reports, showing the number of pensioners whose deaths have come to their knowledge, for the year ending 4th September, 1833.

Agencies.	Revolutionary act March 18, 1818.	Invalids	Remarks.
Maine,	26		
New Hampshire,	26	5	
Massachusetts	49	6	
Connecticut,	30	4	
Rhode Island,	3		
Vermont,	55	3	
New York,	67	13	
New Jersey,	15	2	
Pennsylvania,	38	6	
Pittsburg agency,	21	5	
Delaware,	1	1	
Maryland,	6	4	
Virginia,	28	2	
North Carolina,	10		
South Carolina,	5	1	
Georgia,	3	1	
East Tennessee,	–	–	No returns.
West Tennessee,	3		
Kentucky,	19	4	
Ohio,	–	–	Do.
Indiana,	13	3	
Louisiana,	–	–	Do.
Mississippi,	3		
Michigan,	1	1	
Illinois,	2		
Missouri,	1	1	
Alabama,	–	–	Do.
District of Columbia,	–	1	
	425	63	

WAR DEPARTMENT,
Pension Office, November 25, 1833.
J. L. EDWARDS,
Commissioner of Pensions.

D.

A Statement showing the number of persons that have been placed on the pension rolls of the different States and Territories, under the act of June 7, 1832.

Maine,	1,263	Georgia,	293
New Hampshire,	1,372	Kentucky,	1,331
Massachusetts,	2,810	Tennessee,	1,276
Connecticut,	1,744	Indiana,	400
Rhode Island,	594	Ohio and Pittsburg,	1,242
Vermont,	1,468	Louisiana,	10
New York,	4,310	Mississippi,	28
New Jersey,	675	Alabama,	190
Pennsylvania and Pittsburg,	1,136	Missouri,	96
Delaware,	4	Illinois,	155
Maryland,	82	Michigan Territory,	15
Virgina,	1,527	Arkansas,	5
North Carolina,	1,073	Florida,	3
South Carolina,	288	District of Columbia,	48
			23,438

WAR DEPARTMENT,
Pension Office, November 27, 1833.
J. L. EDWARDS, *Com'r of Pens.*

E.

A Statement showing the number of persons who have died since making application for pensions, under the act of June 7, 1832.

Maine,	33	Kentucky,	16
New Hampshire,	14	Tennessee,	4
Massachusetts,	63	Indiana,	4
Connecticut,	37	Ohio and Pittsburg agency,	6
Rhode Island,	9	Louisiana,	
Vermont,	21	Mississippi,	
New York,	45	Alabama,	
New Jersey,	22	Missouri,	
Pennsylvania and Pittsburg,	13	Illinois,	1
Delaware,		Michigan Territory,	
Maryland,	3	Arkansas,	
Virginia,	17	Florida,	
North Carolina	8	District of Columbia,	2
South Carolina,			
Georgia,	3		321

War Department,
Pension Office, November 25, 1833.
J. L. EDWARDS, *Com'r of Pens.*

F.

Statement showing the number of persons who have applied for pensions under the act of June 7, 1832; the number of claims admitted; the number rejected, and the number in transitu.

Number of claims presented, -	–	30,625
Number of pensions granted -	23,438	
Number of returned cases in the office not examined, - -	300	
Number of claims rejected, -	1,111	
Number of claims suspended, awaiting additional proof or explanation, - - - -	1,351	
Number of claims in the hands of agents or claimants, - -	4,425	30,625

War Department,
Pension Office, November 27, 1833.
J. L. EDWARDS, *Com'r of Pens.*

G.

A Statement showing the number who have relinquished their pensions under the act of March 18, 1818, *and have been placed on the rolls under the act of June* 7, 1832.

Maine,	26	South Carolina,	
New Hampshire,	12	Georgia,	
Massachusetts,	15	Kentucky,	7
Connecticut,	28	East and West Tennessee,	2
Rhode Island,	7	Ohio and Pittsburg agency,	8
Vermont,	22	Indiana,	2
New York and agencies,	32	Louisiana,	
New Jersey,	3	Mississippi,	
Pennsylvania and agency of Pittsburg,	5	Michigan,	
Delaware,		Illinois,	
Maryland,	1	Alabama,	
Virginia,	5	Missouri,	
North Carolina,	1	District of Columbia,	1
			177

War Department,
Pension Office, November 25, 1833.
J. L. EDWARDS, *Com'r of Pens.*

REPORT OF THE BOUNTY LAND OFFICE,

For the year ending 30*th of Sept.* 1833.

Return of claims which have been deposited in the Bounty Land Office in the year ending on the 30*th September,* 1833, *for services rendered in the revolutionary war.*

Claims received from the 1st October, 1832, to the 30th September, 1833, inclusive - - - - -			628
Do	on which land warrants have issued	94	
Do	previously satisfied - - -	125	
Do	not entitled to land - - -	103	
Do	in which the names of the applicants are not returned on the records	221	
Do	for which regulations were sent -	30	
Do	in which further evidence was required	55	
			628

Abstract of the number of warrants issued in the year ending on the 30*th September,* 1833.

1	lieutenant colonel - -		450
1	major - - -		400
6	captains	300 acres each	1,800
13	lieutenants	200 do	2,600
2	ensigns	150 do	300
1	surgeon's mate - -		300
70	rank and file	100 acres each	7,000
Total warrants 94		Total acres	12,850

Land warrants signed by Generals Knox and Dearborn, on file, unclaimed, - - - - - 48

Returns of claims which have been deposited in the Bounty Land Office for the year ending on the 30*th September,* 1833, *for services rendered in the late war.*

Claims suspended per last report - -			309
Do	since received - - - -		270
			579
Claims on which warrants have issued -		67	
Do	previously satisfied - -	45	
Do	not entitled to land - -	36	
Do	returned for further evidence -	89	
Do	for which regulations were sent -	33	
Do	on file, suspended - -	309	
			579

Abstract of the number of warrants issued for the year ending on the 30*th September,* 1833.

1st. authorized by the acts of December 24, 1811, and January 11, 1812 - -	65
2d. authorized by the acts of December 10, 1814 - - - - -	1
Whereof, of the 1st description, 65 granted of 160 acres each - - -	10,400
Do of the 2d description, 1 granted of 320 acres each - - - -	320
One Canadian warrant, per special act of Congress, for - - - -	160
Total acres	10,880

Department of War,
Bounty Land Office, November 1, 1833.

The above and aforegoing is respectfully reported to the honorable Secretary of War as the proceedings of this office for the year ending on the 30th September, 1833.

WM. GORDON, *First Clerk.*

REPORT OF THE SECRETARY OF THE NAVY.

NAVY DEPARTMENT,
November 30, 1833.

SIR: In submitting to your consideration a review of the operations of the naval branch of the public service during the past year, I would first invite attention to its administration in this place.

The separate organization of the Navy Department in the manner originally established by Congress, and the change since made by the addition of a Navy Board, have, with the several clerks now allowed, furnished a sufficient number of persons for the suitable discharge of all ordinary duties immediately connected with this office. So far as my knowledge extends, those duties have generally been performed with promptitude and accuracy; but some changes in the present laws respecting them would probably prove beneficial. Though the number of clerks, and the aggregate amount of salary paid to them, are deemed sufficient, yet more substantial justice could be enforced if that amount was so appropriated as to permit the Department to divide it in conformity to the usefulness of their respective services. It has happened that some of them receiving large salaries perform no greater or more difficult duties than those receiving less pay, and no power exists here to equalize their compensation, except by an occasional transfer of duties, not always convenient, appropriate, or useful.

A different arrangement of the Navy Board has, for a few years, been a subject of consideration by Congress. The Board itself, and the head of this Department, once united in recommending such a change as to apportion its ordinary business among the several members, with a view to greater convenience, despatch, and responsibity. This could be accomplished without any material increase of expense, and it seems, on many accounts, very desirable. The reasons for the change have been so fully detailed in former reports as not to need at this time further explanation.

There might be some useful alterations connected with the administration of the naval branch of the service in the office of the Fourth Auditor, whose duties, though nominally belonging to the Treasury Department, are intimately allied with, and very essential in most of, the operations of the navy. The great amount of property which is in charge of this Department, and which is yearly increasing, seems to require that a regular account of it should be opened in that office, and kept in such manner as to ensure safety and responsibility. In another particular, improvement could be made. The old balances on his books, due from defaulters who were once in the naval service, are large, and though few such balances have occurred lately, yet the collection of all of them would doubtless be promoted if it were devolved upon him as the person who, from his official station, is best acquainted with the situation of the claims, and the means of payment possessed by the debtors, and who could act with the most promptitude in securing the public.

Auxiliary to the central administration of the naval service, the inspection of our ordnance was a few years since assigned to an officer of rank residing in this neighborhood; and authorized to receive the usual extra allowances while engaged in actual duty. His employment during the past season has been much extended, having embraced the inspection of all our ordnance and ordnance stores in depot at all the naval stations. The result it is hoped may prove highly beneficial in our future operations. Under a similar arrangement, the custody and correction, as well as occasionally the purchase of charts, chronometers, compasses, and nautical instruments generally, were devolved on two intelligent officers stationed at this place. The system has worked favorably; and the small increase of expense attending it, has been amply repaid in the better preservation and quality of those articles, and in the probable increase of safety to our vessels afloat, and to the lives of their gallant officers and crews. A specific estimate for the purchase and maintenance of a lithographic press is submitted as a means of saving, under charge of these officers, still more to the public in the procurement of charts, circulars, and blank forms, of such kinds as are employed, not only in this office, but at the several yards and on board vessels in commission. (A.) Its various conveniences and usefulness in other respects, and especially in the drawings and plans connected with the survey of our coast, now in progress, are more particularly detailed in the reports annexed. (B, 1 and 2.) To prevent any nominal or real increase of appropriations in consequence of the purchase of this press, it will be seen in the general estimates that a corresponding, or, indeed, a larger reduction has been made in what is asked for the general contingent appropriations for this office and for the service, and out of which appropriations most of the above articles are now provided.

It was formely recommended to organize at this place a naval medical bureau, and a bill is now on the files of Congress reported for that purpose. As that bill was not finally disposed of, I did not deem it proper to adopt any different system for attaining in a different manner most of the benefits expected to be accomplished by that measure. But if nothing be done during the ensuing session of Congress, regulating this subject, it is intended, under our present laws, that one of the older surgeons, in connexion with other services, either at the barracks or navy yard in this city, shall be detailed and employed in performing many of the duties contemplated for a surgeon general.

The whole expenses, the past year, for all persons situated here, and belonging to the administration of this Department, as well as the expenses for the care and repair of our furniture, buildings, and the grounds appertinent, were about $48,000. This amount, I trust, will be thought to bear a favorable comparison with the same class of expenses at former periods, or in other similar establishments, when the large increase and extent of duties at this place are duly considered.

Passing from the central administration of this Department, to that of the persons connected with its operations elsewhere, I would next submit to your consideration a few remarks on the situation of such of those persons as fill official stations, but are not technically denominated naval officers. They are a large and useful class, belonging to what may be considered our civil list, and consist of agents, storekeepers, constructors, builders, schoolmasters, secretaries to commanders, clerks of yards, engineers, live-oak superintendents, and some others attached to stations and hospitals.

In an establishment growing like the navy in a few years from so small a beginning to its comparatively great size at the close of the late war, and at the present moment, it was perhaps unavoidable that many measures and appointments, considered as incidental to other important objects expressly authorized, should be left to the discretion of the Department. In this way most of the above persons have been employed and paid, usually by virtue of estimates and general appropriations, without any specific provision in any act of Congress regulating the manner of their appointment, or the amount of their compensation. Indeed, a system similar in some respects has been extended to others; as the only limit, which now exists, to the number of every class of naval officers is the same discretion, restrained solely by estimates and appropriations, and by the confirmation required from the Senate in the case of commissioned officers. These practices have not, in my opinion, been the safest; though

the custom of this Department to submit to Congress, through the Executive and otherwise, full communications of its doings in relation to most of these subjects, enables the Government to exercise any control deemed necessary over any supposed abuse. My own desire has been, whenever convenient and practicable, to impose still further limits on that discretion. With this view, on a former occasion, the estimates for the contingent appropriations were made by me more specific, and settled rules of allowances and compensation in most cases were established or collected, and then digested and published. The revision of our whole naval regulations by the Board heretofore appointed for that purpose, will, when finished and adopted, probably introduce greater system and certainty in relation to some of these matters. But it still deserves consideration, whether additional legal provision might not judiciously be made concerning the appointment and wages of some of the classes before named. All the persons on the civil list now under consideration are believed to have conducted, during the past year, with fidelity to their duties. The only essential changes in relation to them have been the following. There has been a discontinuance of two naval constructors, whose services were no longer needed; and new and more economical arrangements have been made as to the duties of some of our agents and storekeepers abroad. The few live-oak agents, appointed for certain districts, who remained in office last December, have been dispensed with; and no salary is now paying on that account, except to one person, in temporary employ for a few months, in the examination of one unfinished district. In some cases in which we have had warranted officers, competent to perform the labors assigned to persons belonging to civil life, and hired at some of the yards, it has been deemed sound economy to order the former upon such duty, and to discontinue the services of the latter. It has not yet been found necessary to select a permanent engineer, as the superintendents of the dry docks and of the erection of the hospitals have been able, for the present, to perform such duties as would have been required of him. But the additional schoolmasters, authorized at the last session, have been employed, and it is hoped with increased benefit to the class of younger officers. A general order has recently been issued with a view to improve the education of these officers, by requiring all midshipmen, whether passed or not, after suitable relaxation under leaves of absence, to attend on one of the naval schools for further instruction in the studies, and proficiency in the duties, belonging to their profession. It is intended to employ them there not only in appropriate reading, nautical observations and recitations, but in forming a more practical acquaintance with the several materials used in the construction and equipment of vessels, and with the manner of preserving them, and of applying them in building and repairs. A due portion of their leisure will also be devoted to the performance of such services, connected with our most important naval stations where the schools are established, as will be useful to the public, and at the same time advance them in a more thorough knowledge of the active duties which may soon devolve on them in higher and more responsible situations. Excepting these variations, the civil establishments at the yards, and abroad, have not been materially altered during the year. It will be seen that the whole expenses of the persons connected with them have been considerably reduced, and are now annually about $130,000. This does not include the wages of ordinary laborers, as these are more properly charged, according to their employment, under other heads, which will hereafter be considered—such, for example, as repairs of vessels, improvements at yards, or building of hospitals. The only material change proposed in the civil list for the ensuing year, is a small addition to the very low compensation of some of the clerks at a few of the yards.

The remaining persons belonging to the naval establishment are the various officers and seamen of the navy. The general conduct of these, the past year, has been highly commendable. The very small number of courts-martial, it is believed, has arisen from an improving spirit of harmony in the service, and from a mild but firm and uniform system of discipline. Seldom has the health enjoyed on every station been better; and the superior condition of the medical corps, as well as of the hospitals, exercises on this subject a very salutary influence.

The number of officers in the different classes has generally been kept within the estimates. It is proposed to continue the number much as it now exists. There are now quite as many captains and surgeons as can be usefully employed; the former having been increased about one-third, and the latter one-fourth, during the last ten years. There are somewhat more lieutenants and midshipmen than might be deemed indispensable, the former within that time having been increased about one-half, and the latter one-fourth; though, in making this comparison, it is proper to state that, previous to 1824, all these classes had occasionally been more numerous than they were at that period. But, in relation to the two last classes, no reduction from the estimates of last year is contemplated. It is considered that, on a peace establishment, they ought to possess ample and valuable materials for any sudden or large increase of the higher classes, which any national emergency may at any time require; while nothing is found to prove more injurious to older officers, than to be placed in a condition where no further incentives to improvement by anticipated promotion exist, and where the classes they already fill contain so large a number as to permit many years to elapse without the possibility of putting them all on active duty, unless at the expense, inconvenience, and injury of more frequent changes of the superior officers in stations and squadrons, than the public interests appear to justify.

The whole number of naval officers at this time, including those under warrants as well as commissions, are about 1,000; and our whole annual expenses of every kind, for their maintenance, is about $850,000, or, on an average, about 850 dollars for each officer. These expenses have not been increased during the last ten years, except what has been caused by the addition before mentioned to the numbers of some classes of officers, and the augmentation in pay in 1827 to passed midshipmen, in 1828 to surgeons and their assistants, and in 1830 to lieutenants. In the mean time, of late years, more useless officers have been placed on half pay, and some large allowances reduced; but no further essential reductions in these particulars can, in my opinion, be effected, without injury either to individual officers or to the naval service. Whatever has been accomplished by myself on this subject, and on the requirement of a more equal portion of laborious duty from all officers of similar rank and date, who were not invalids, has often caused to me much pain; but it has been prompted by a strong sense of the equal justice due to the officers themselves, and of the manifest propriety in this Department of seeing that all those under its administration perform services for the public, when practicable, in some degree proportionate to the compensation they receive.

It is hoped that I may not be deemed importunate in once more urging on your attention a topic far more grateful to my feelings. I have long entertained a decided opinion that the compensation to some classes of officers ought to be increased. It is certain that more equal justice would be awarded to all, that services at sea could more easily be obtained, that greater cheerfulness and alacrity in the performance of duty would be evinced, and a higher grade of qualifications in some subordinate

stations could be commanded, if the whole subject of pay was revised, and the compensation graduated in a fairer proportion among different ranks in the navy, and to similar ranks in the army; and if there was provision made for a larger and marked discrimination between duty afloat and leave of absence or waiting orders on shore. Such a discrimination formed a prominent feature in the act of Congress passed April 21, 1806, and which regulated pay as now established. But that discrimination, amounting to one-half of the whole pay, was virtually abolished by a rule of this Department in 1819. During the continuance of the small compensation to some classes of officers, and after so long a practice under that rule, with the yearly sanction of Congress, by means of the estimates and corresponding appropriations in conformity to the rule, I have not felt at liberty to alter it. Further details on this subject, at this time, are not deemed necessary, as they have fully and recently been laid before you in a special report from this Department, on a resolution of the Senate passed at the last session of Congress.

The whole number of seamen in the navy, including all the different grades, does not vary much from 5,000; and the annual expenses of their pay, rations, and enlistment, are not far from $1,130,000, or, on an average, about $226 for each seaman. These expenses are small, and indicate great popularity in the service, when we advert not only to our facility in obtaining good seamen, but to the high rate of wages the past year in merchant vessels, and to the great cost of this class of persons in the navies of some countries where labor is generally much lower than in the United States. These expenses have not been increased the last ten years, except by an augmentation of about one-third in the whole number of seamen, arising chiefly from an increase of our force in commission. The complement of men to each vessel might advantageously, in some respects, be lessened, and the whole expenses, on account of them, be thus reduced, were it not considered of vital importance, in so small a navy, to have all our ships afloat as perfect as possible in every particular conducive to their efficiency, and to the reputation of the Government. It is expected that a laudable pride will then be felt and encouraged by all connected with the service, on a comparison of the condition of our own ships with those of other nations; and that the moral force of our navy, as a model for a larger one when wanted, as likely to vindicate its country's rights and honor in war, and protect its commerce in peace, will always be much greater with a small number of vessels afloat, built of the best materials, and in the best manner, supplied with the most approved equipments, commanded by well-educated and well-disciplined officers, and navigated by full crews of hardy and contented seamen, with the whole ready, on any emergency, for immediate and efficient action, than with double the number of vessels half-manned, and in other respects defectively provided. Every improvement in our materials, whether timber, cordage, or cannon, in our yards, docks, or harbors, in our hospitals or asylums, will add strength to its moral force, and better prepare us for any future conflict in which the violence or injustice of other nations may involve us.

In connexion with this part of the service, it is deemed proper to present some remarks concerning the condition of the marine corps. The subject of its allowances, in addition to pay, was not specially noticed by Congress the last year; though in that way it has of late been customary to regulate them. But, under the belief that the omission probably arose from accident, I have not interfered to revise the difficulties which have so long existed under that head. It will, however, be be considered my duty, the ensuing year, to investigate and attempt to adjust them, if not otherwise provided for.

The commutation of the whiskey part of the ration while the marines are at sea, has been extended to this corps; and the army regulation entirely abolishing that part has been applied to their rations while on shore. The whole expenses of the corps, independent of the erection of barracks and officers' quarters, are yearly about $190,000. The expenditures for such erections, on an average for the last ten years, have been about $5,000 annually. The quarters authorized at Philadelphia have been completed; but the comfort and proper accommodation of the men require new barracks at New-York. The estimates for this purpose, and for the support of this corps, are herewith submitted. (C, 1 and 2.)

The examination of the state of the pensioners upon the navy pension fund, as those enjoying its privileges, who have been or are now in the service, or were connected with those once in it, may also be deemed to come properly under the head of persons attached to the navy. Though the annual expenditures from that fund are about $33,000, yet the fund itself did not spring from the public treasury, except as derived from prizes captured by our public vessels. It was not till lately that its disbursements were classed with the navy expenditures; and now the only yearly expense this fund and its administration here impose on the Treasury is the portion of time they occupy of the head of this Department, and of one clerk. Its annual income now exceeds the annual expenses about $20,000; and, during the past year, rules have been prepared, and the benefits of this surplus extended, as originally contemplated by the act of Congress creating the fund, so as to embrace those officers and seamen who, without being wounded, have, during long and faithful services, been visited by infirmities entitling them to relief. Five persons, coming under this description, have been added to the pension list, and are allowed suitable clothing, food, and medical attendance. The number of pensioners, under this and the other provisions, is 298.

The condition of the privateer pensioners, placed under the exclusive administration of this Department, has not essentially changed during the year. The fund for their relief, like that for navy pensioners, does not come from the public treasury, and its management is no charge upon that treasury, except in the particulars before mentioned. As the whole of this fund was derived from captures by privateers, it has been deemed expedient to exhaust it in the support of those disabled, and of proper persons connected with those whose bravery and enterprise made the captures. It has, therefore, become gradually reduced to $44,667. The annual charge on it at this time is about $3,000, exceeding considerably the annual income; and thus, in due time, carrying into effect the original policy of the system. For further particulars about these two funds, reference can be had to the annexed statements. (D, 1 to 6.)

On a review of the entire personal branch of our naval establishment, it will be seen that its annual cost, not including the marine corps, is about $2,000,000, and of that sum about $1,964,000 is an annual charge on the public treasury. Considering the size and usefulness of the whole naval establishment, it is believed that this part of it, at the present time, bears a judicious and economical proportion to the whole, except in the particulars heretofore enumerated. Should improvements be made in those particulars, I am satisfied that the number and compensation of the persons employed both on the civil list and in the navy, will be found to be such as to ensure the due care and preservation of the public property, to furnish officers and men sufficient for the present protection of our commerce and rights abroad, and to maintain among all classes a state of discipline and activity indispensable to efficiency in the discharge of ordinary duties, and to a supply of suitable candidates for promotion in the extraordinary exigencies of the future.

The deaths, dismissions, and resignations in the service, since my last report, may be seen in the tables annexed.

When we advert to the other subjects connected with the navy, and more especially to what may be considered as belonging to its materials, it is deemed proper to notice, first, the employment and condition of our public vessels. Those in commission have consisted of one ship of the line, four frigates, eleven sloops, and seven schooners. They have been distributed, as usual, on four foreign stations, keeping up a greater intercourse than formerly with the western coasts of Portugal and Africa, and with the adjacent islands, extending our cruises into various parts of the Indian ocean, and making the West India squadron act somewhat more as a home squadron, by requiring a portion of it to visit twice, annually, some of our Atlantic ports. By properly regulating these visits, much exposure in the two most dangerous months in a tropical climate is avoided, and great facilities are obtained to furnish necessary supplies to relieve parts of their crews, and exchange officers, as well as to have nearer at hand, during those visits, vessels in commission, which, if any emergency should occur, may be despatched at once on any distant or important service. Efforts have been made to relieve, seasonably, all our vessels which have been more than two years abroad. The Fairfield and Vincennes have been sent to the Pacific to succeed the Potomac and Falmouth; the Natchez and Ontario to the Brazilian station, in place of the Lexington and Warren; the Experiment to the West Indies, in place of the Shark; and the Shark and Delaware to the Mediterranean, in place of the Concord, Boston, John Adams, and Brandywine. In making these changes so early as to prevent the expiration abroad of the service of our seamen, much discontent has been avoided, though this system has necessarily subjected the Department to some additional expense, by having occasionally, for short periods, double sets of vessels afloat attached to the same station. But it has enabled us to perform our engagements faithfully with their crews, and to keep up a more regular and constant force on each station for protection. At the same time caution has been taken to guard against an increase of our whole expenditure for the current year beyond the appropriations connected with this subject.

All these squadrons have been actively and efficiently employed, and it gives me great satisfaction to state that our commerce in all quarters of the globe was probably never known to be more free from menaces, danger, or actual violence.

The estimates for the ensuing year are for the same amount of force as was authorized the past year, consisting of about 530 guns, and distributed in such a proportion among vessels of every class belonging to our service, as to combine the greatest efficiency, for naval purposes during peace, with the soundest economy. Few will deem that force either too large or extravagant, when it is considered that our foreign commerce, exposed on the ocean, exceeds $100,000,000 in imports, and almost an equal amount of exports, with vessels exposed in their transportation of over half a million in tonnage, and probably twenty millions in value; and when it is remembered how much the security, not only of those vessels and their cargoes, but of their numerous crews; and of other classes of our citizens resident in some countries abroad, depends upon our navy being actively and widely distributed. On this point it may be well to reflect further how safely that navy enables us, not only to send to new and the most distant markets, and thus to give increased value to the surplus proceeds of our agriculture, manufactories, and fisheries, and to obtain in return whatever may conduce to comfort, improvement, or wealth, but what protection and enhanced worth it confers on most of our immense coasting trade; how much our national reputation abroad is every where known and appreciated by it; the respect it inspires, the security it yields, and the weight it affords in all our claims of justice and negotiations with semi-barbarous nations; and how justly it may be apprehended that new perils will, ere long, await a portion of our trade, and the tranquillity of a part of our maritime frontier, from the operations of a new course of legislation by some foreign Powers concerning an unfortunate portion of their population, and against which perils, as well as against the ordinary aggressions and piracies in peace, and much of the depredations that may threaten us in war, the navy, from the insular situation of our country as to most of the world, must always be regarded as our great safeguard.

The facilities for the examination and repair of our vessels have been much increased the past year by the completion, in most respects, of the two dry docks, and the expenses in refitting the classes of larger vessels will thereby become sensibly reduced.

The present policy of this Department is to launch no more vessels of the same size with those in ordinary, until the latter are worn out. But it is proposed to build from time to time, and protect on the stocks till wanted, such new vessels as Congress may authorize to be constructed, because in that condition their timber will improve rather than decay, and the expense of taking care of them will be trifling compared with that of vessels in ordinary. This course has been adopted the past year with the Macedonian, now building. It is recommended as sound policy, that authority should be given to procure the frame for another sloop, to be called the Levant, after the consort so gallantly captured with the Cyane; and the frame for another frigate, to be called the Paul Jones, in grateful memory of one of the earliest, bravest, and most distinguished commanders in our naval service during the Revolution. The estimates for the purchase of these are submitted. (H.)

Frames could not be bought for vessels of these names, under any existing laws; and the timber, if procured and seasoned, whether soon set up or not, would become more valuable, being sheltered under either our present excellent sheds or ship-houses, and live oak probably becoming scarcer and dearer as our Southern frontier is cleared for cultivation.

The vessels in ordinary, and on the stocks, as well as the frames for others in depot, have all been examined, and found to be in a good state of preservation, except a few of those in ordinary. Some of these are defective, by their long continuance afloat before being covered, some by their great age, and some by the original imperfection of their timber. Those unworthy of being refitted, are used at times for receiving-ships, and the rest, as wanted, are placed in a proper state to go into commission for the relief of other vessels returning from long cruises, and needing extensive repairs. As vessels afloat grow older, their repairs must of necessity become more expensive. The cost of all repairs of all our vessels, the past year, has been about $580,000. During the last ten years, the repairs have been on an average about $500,000 annually.

A table showing the vessels in commission, with their commanders and stations, is submitted. (I.)

The names and condition of those in ordinary and on the stocks may be seen in the documents annexed. (K, 1 and 2)

Proceeding from the vessels to the materials used in their construction and equipment, not much has occurred the past year deserving notice. Some additions of valuable and durable articles have been made to our various stores on hand at the time of my last annual report. All these stores, and especially the timber in the docks and under sheds, are in good condition, and means have been taken to ascertain and supply any deficiency in any article not perishable which may be wanted for the building and perfect equipment of every vessel on the stocks, and every frame in depot. As more timber may be needed,

or thought proper to be purchased in advance, our means for the supply of live oak—it being the most important species—have been fully investigated and discussed in a special report to Congress from this Department during the last session. Referring to that for detailed information on this point, I would only add, that subsequent examinations in some of the then unfinished districts have fully confirmed the impressions entertained concerning the great quantity of live-oak timber on portions of the public lands in those districts. In respect to the other kinds of timber needed in ship-building, the Government has made little public provision, and doubts exist whether it will be necessary to make any further public provision for its growth or preservation while the prices continue so moderate, and the resources of the country in such timber are likely for many years to remain so very abundant.

The erection of two new magazines where none before existed, is proposed the next season, and an estimate for that purpose is submitted. (L.) Connected with this, a thorough inspection has been made, not only of our present ordnance stores, but, as previously mentioned, of all our arms on hand, with a view to the sale of such as is defective or unsuitable, and to the procurement of what may be found necessary to produce uniformity and the greatest power in our future armaments. The usual sum of about ten thousand dollars has been expended for the purchase of such ordnance and ordnance stores as the current wants of the service required. The buying and manufacture of iron tanks for all our vessels in commission are in rapid progress under the late appropriation for that purpose; and should Congress sanction the making of our own cordage, as heretofore asked, and as now again proposed in the general estimates, the equipment of our vessels would soon become, throughout, all which the friends of the service could desire, for health, safety, efficiency, and national reputation.

After much deliberation, the Department has become convinced that the building or purchase of two store-ships for the Pacific station, to be used in the transportation and the preservation there of supplies of all kinds, would promote sound economy, and increase the comforts of our seamen. An estimate for the procurement of one the ensuing year is submitted. (M.) We are obliged to pay freight for these supplies, heavy duties either on their being landed or re-shipped, and large rent for storehouses. The duties are a burden from which we are almost entirely exonerated under similar circumstances in other quarters of the world. The proposed measure would relieve us from them as well as the other charges; and the store-ships, by going out and returning separately and alternately, would afford great facilities to exchange or bring home invalid officers and seamen, without incurring the expense of their passages in merchant vessels from so distant a station.

The construction of two or three small steam batteries, for reasons heretofore recommended, is still deemed highly important to our future interests; and too long delay in making further experiments, and in acquiring further science on this subject, in our naval service, may, on the sudden occurrence of hostilities, place us in a position not a little mortifying to our pride, and hazardous to our welfare.

The different navy yards are essential portions of our naval establishment, connected with its materials. The condition of most of them has been improved the past year, either by new buildings for officers' quarters, or new storehouses and timber-sheds, or new wharves and other conveniences.

The two dry docks at the yards near Norfolk and Boston having been successfully completed in all essential particulars; the details on that subject will be found in the report annexed. (N, 1, 2, and 3.) This report shows the whole expenditure the last year, not only on that subject, but on all others under the head of gradual improvement. From the great advantages already realized in the ease and rapidity of repairs in vessels at the yards where these dry docks are situated, I am satisfied that others would be found very beneficial. Surveys were formerly had for two more, one at New York and one at Portsmouth; and a report in favor of those two was once made and approved in the House of Representatives. Much can be urged in favor of the former place, on account of its central position, and great resources for repairs, stores, seamen, and workmen; and of the latter place, on account of the low price of labor, small cost of constructing a dock, and the easy access to it by vessels of all classes at all seasons of the year. But whether one, or both, or neither, shall be selected at this time, is submitted to the proper authority, on a review of the whole subject. It must be obvious that the relative importance of different stations must undergo changes as the capacities of different quarters of the country become more fully developed; and that some places now employed as naval depots can be of very little use on the occurrence of war, while the positions of others, when that event may happen, will greatly increase their usefulness. Among the new places which, on such an occasion, if not earlier, the interests of the country may require the Government to occupy for naval purposes, will undoubtedly be Newport harbor on the North, and one or more positions on the long range of coast to the South, between Norfolk and Pensacola. Whether the last selection should be made near Charleston or Savannah, at Key West or the Dry Tortugas, each of which possesses advantages for such purposes, can be better decided when the time and circumstances occur rendering immediate action necessary. The continuance of Pensacola as a naval station seems to me judicious. This opinion arises not only from its convenient position as to the whole Gulf of Mexico, but its proximity to the mouths of the Mississippi and Mobile rivers, whose great and growing commerce is so amply entitled to the best protection. In the depth and size of its bay, in the excellent defences at its mouth, in its healthy situation, in its easy access to all our vessels except of the two highest classes, Pensacola has no prominent rival in that neighborhood. The correspondence and documents annexed (O 1 and 2) are submitted, to aid yourself and Congress to judge of the practicability and propriety of deepening the entrance to the bay, so as to admit vessels of the largest class. This, it is supposed, can be effected at a small expense compared with the importance of such a measure to the full operations of our navy on that coast, and to the greater security and strength of our Southern maritime defences.

The exchange of lands at the yard near New York, authorized at the last session of Congress, has been carried into effect. The controverted claim of the heirs of Mr. Harris to a part of the navy yard near Boston, has once been laid before Congress, and a new action having been instituted by them against the commander of that station, as will be seen by the letter annexed, such course will be pursued in its defence as Congress may be pleased to direct. (P.)

Some new pretensions have been set up to different parcels of land included in our possession and purchases at Norfolk, but their justice cannot be recognised on the facts known to the Department; and those making them have been informed that no steps can be taken for their adjustment, unless the parties previously obtain the sanction of Congress, or a judgment in their favor by the courts of law.

The expenditures on all the yards the last year, exclusive of the dry docks, but including houses, sheds, stores, wharves, enclosures, workshops, marine barracks, and incidental labor, have been about $360,000. The expenditures on the dry docks are chargeable to a distinct appropriation for gradual improvement, and were about $180,000. The other expenditures under the last head were about $150,000. (N, 1.) The estimates for the usual

objects at the yards, the ensuing year, are about the average amount for the last two years. Besides those objects, they include an extra sum towards the erection of rope-walks, in conformity with the plan adopted by Congress in 1827, and yet the whole amount requested towards these and all other improvements at all the yards is only $354,000.

Immediately connected with the subject of our yards, is that of our naval hospitals and the naval asylum. Under the appropriations lately made by Congress, new hospitals have been commenced near Pensacola, New York, and Boston, on retired and healthy sites, combining great convenience and beauty. The plans of these have been formed on a scale suited only to the present wants of the service, but capable of easy and appropriate enlargement hereafter; whenever our necessities may require it. An additional sum will be needed to finish them in the manner proposed, and to make further progress in the hospital before built at Norfolk. (Q.) Such expenditures have been made the past year on the latter from the general hospital fund, as could well be spared, and as the comforts of its inmates seemed most urgently to demand. It is much larger than our present necessities require, and therefore it is not proposed to finish the whole interior of it; but the exterior of this hospital is now chiefly completed, and it has become one of the most beautiful and useful public buildings belonging to the Government. The naval asylum at Philadelphia has been finished, and partly furnished. But it is much regretted that the Department has not been able to obtain a cession of jurisdiction over it without reservations that render the cession wholly nugatory. Besides retaining the usual power in the State to execute criminal and civil process, the reservations subject it to, and it actually is burdened by, the assessment of large taxes, which are paid from the hard earnings of our seamen; and an unlimited right is retained to cut up the property by new streets. Further efforts are now making by the Department to obtain relief from these onerous taxes and liabilities, so disadvantageous, if not fatal to the success of this public and charitable institution. Should these efforts fail, all the correspondence and documents in the case will be submitted, in order that such legislation may be had as the whole circumstances connected with the subject shall be thought to require.

The general condition of the hospital fund may be seen in the statement before referred to. (D, 6.)

The ordinary purchases of medicines and surgical instruments for use in hospitals and yards, and in vessels afloat, are included under a specific appropriation, and are about 35,000 dollars yearly. The pay and subsistence of the surgeons and assistant surgeons attached to the hospitals, are provided for under the general appropriation for navy officers. The other annual expenses of our hospital establishment, independent of buildings, furniture, and repairs, are about $1,000. These are defrayed wholly from assessments on the seamen and officers. From the same quarter come all other resources for the establishment, with the exception of such appropriations as Congress have made, from time to time, to aid in erecting and furnishing buildings. These last appropriations have been made but seldom, and have within ten years amounted to a sum which would be on an average about $22,150 annually: and for the same purposes during that period, the fund has furnished, from its annual increase and former accumulations, about $45,000 annually. Should Congress grant what is now asked, more will probably not be wanted for many years. In immediate connexion with the yards, hospitals, and other real estate, belonging to our naval establishment, is the live-oak plantation. Being situated only seven miles from our most Southern yard, it has the past year been placed under the same general superintendence. The purchase of the land, and the cutting and removal of the underwood and common timber from about 200 acres of the plantation, had been accomplished before the charge of this Department was placed in my hands. It seemed to me judicious, in that state of things, to attempt to preserve any benefits already attained or fairly anticipated, by continuing to destroy, a few years longer, the annual growth of other wood injurious to the young live-oak trees, to trim and train the thriftiest new ones appearing, and to employ merely the leisure of the hands so engaged, in extending this process to more of the land. From 200 acres of land, and 22,000 live-oak trees, to which, in 1829, the above system had been applied, it has since 1831 been so continually extended, that the nursery has become enlarged to 225 acres, and includes over 60,000 trees. The expense attending this has been about 1,200 dollars a year: but should any considerable portion of the trees ever reach maturity, and attain a size suitable for shipbuilding, the Government will be amply repaid. As the trees grow larger, the annual expense concerning the same number will rapidly diminish. Doubts exist whether some of them, from the poverty of the soil, and their apparently dwarfish character, will ever attain a valuable size. But it is now too early for forming a decisive opinion on the extent to which the operation of these causes may affect the whole plantation: and, under existing circumstances, sound policy appears to require that the experiment, having gone so far, should be allowed a further and full trial. The nearness of the plantation to the Pensacola yard, and to water transportation, enhances much the value of any timber it may produce. Lately, I have not only placed this land under the general superintendence of the commander of that yard, but required his particular and constant vigilance over the live-oak reservations in all that region of country.

The whole agencies, heretofore connected with our live oak, have, as before suggested, been discontinued; all the districts, except small portions of two, having been explored as fully as is deemed useful till the surveys of the land into townships and sections shall be completed. As fast as they may be completed, arrangements have been made for additional reservations of public land, on which live oak has been ascertained to abound; and the prospect of a sufficient supply of that kind of timber in future is flattering, if that on private lands, as these are wanted to be cleared for cultivation, be, from time to time, purchased at moderate prices, and placed in depot for the frames of vessels specially authorized or collected under the head of gradual improvement. On this whole subject, I have so recently and at such length submitted to Congress the views of this Department, that further observations here are not deemed necessary. (See report on live oak to House of Representatives, December 14, 1832.)

Some miscellaneous matters connected with the navy deserve a brief notice. The usual attention has been bestowed on the suppression of the slave trade. The colony of Liberia has been visited by the schooner Porpoise, while in pursuit of a piratical vessel; and which vessel, it is gratifying to add, is supposed to have been since captured by a British brig, and her criminal career terminated near the island of St. Thomas, on the coast of Africa. One-half of the usual appropriation on the subject of the slave trade will probably be sufficient for the ensuing year, as may be seen by the state of the account herewith submitted. (R.)

The renewal of an appropriation for the relief of Alexander Claxton, made in May, 1830, has become necessary, in consequence of its having been transferred to the surplus fund before all the persons entitled to it were able to procure the necessary vouchers. The proceedings of the Board appointed under a resolution of Congress to revise the naval regulations, will be soon submitted in a separate report.

The survey of our seacoast having been placed in charge of the Treasury Department, it is not in my power officially to state its progress; but officers have been detailed, and all available facilities provided, whenever the wishes of those superintending the subject have been communicated.

Some expenses under the contingent appropriation for enumerated objects, have not been included under any of the amounts already mentioned; but they belong to courts martial, to pilotage of vessels, to transportation of materials, to the purchase of charts and books, and various other small items, forming an aggregate of $80,000.

On a review of the whole affairs of this Department, it appears that its expenditures, on all naval subjects, the past year, have been somewhat less than four millions of dollars. It will be seen how this result compares with former periods, by adverting to the fact that, during the last twenty years, these expenditures, except during five years of that time, have never fallen so low as three millions; and, except during six years of that time, have never exceeded four millions. The whole estimates made the past year for the general wants of what is technically considered the navy, were only $3,176,766. Those for the year previous were $3,227,383. Those for the present year are $3,292,224. (S, 1 to 10.) But it is to be remembered that, under the head of naval expenditures, besides what is paid from the amonnt voted on the annual naval estimates, it is customary to class what is paid from half a million appropriated for a term of years to gradual improvement, almost $200,000 for the marine corps, the payments from the navy pension, hospital, and privateer pension funds, and several miscellaneous sums voted by Congress on motions, resolutions, and petitions; and part of which sums, though charged under this head, have little or no concern with our naval establishment. On the contrary, some of the expenses connected with the administration of the Department at this place are included in the general appropriation bills for the support of Government, and are not usually clased under the head of naval expenditures.

It is a high gratification to be able to state that, since 1827, nearly half a million a year has been disbursed for gradual improvement: that within ten years a larger number than formerly, of seamen and officers, with increased pay to four classes of the latter, have been maintained; very great and valuable improvements, besides the dry docks, have been begun and accomplished at many of the yards; and our force in commission considerably augmented; and yet that all our ordinary naval expenditures are, and probably can be kept within four millions of dollars annually.

The smaller appropriations originally made for the navy, served to maintain the few officers and seamen then employed, and supplied us with several fine vessels, four of which are still in existence. The subsequent appropriations on a more extended scale, besides supporting the current expenses of our force in its infancy, furnished the purchase-money for most of our present yards, and defrayed the expenses of our brilliant hostilities with France, and afterwards with Tripoli; till, a few years of comparatively inactivity having ensued, the commencement and progress of the last war with England led to a great addition to the naval establishment, and to expenditures much larger than at present. The liberal appropriations that were continued for some years after that war, aided in laying a good foundation for the gradual increase of the navy, and helped to build not only many of the vessels now in commission and ordinary, but most of those upon the stocks. The appropriations for some years past have been similar in amount, and have enabled the Department to enlarge its policy and widen the sphere of its operations. Besides building some additional vessels, and defraying all the current expenses of an increased force, both personal and material, it has been able to erect hospitals, to construct dry docks, to improve greatly the old yards, to add and maintain a new one on our Southern frontier, and to collect in depot a large amount of valuable stores as a part of the due preparation in peace for the various contingencies of war. With a careful regard to system and economy, and with strict accountability in agents and officers, this policy can long be pursued and extended without making the ordinary annual demands for this branch of the service often exceeding four millions; and if, without essential changes by Congress, increasing our present expenses, and without any unforeseen and extraordinary wants, our fiscal operations can usually be confined within that amount yearly, it is confidently hoped the naval establishment will not be consider wasteful or burdensome beyond its benefits to the country. In disbursing between three and four millions the past year, it is not known that a single instance of any loss has occurred.

The balances on hand, unexpended, are about one million four hundred thousand dollars, but most of them will probably be wanted to close the different accounts, on all the different subjects, when finally adjusted. Connected with our financial concerns, is one other circumstance of urgent importance. The period of time at which the annual appropriations for this branch of the service are usually made, is a source of great inconvenience and injury. The estimates and appropriations are known generally not to extend beyond the current year; consequently, it happens that, after the 1st of January, there is nothing on hand under some heads to meet the daily demands of the service, amounting, on an average, to ten thousand dollars per day, unless a new appropriation has been made, or there happen to be some balances of the former year not called for. Under some heads such balances always exist, because some disbursements, by means of absence, distance, and other causes, are not completed within the year. But they seldom exist under other important heads, and ought not to, if the accounts are seasonably settled and the estimates were accurate, and the appropriations, as is usual, conformed to the estimates. The power now vested in the President to transfer a balance from one appropriation to another, is confined to certain classes of claims, small in amount, and hence, as to all others, no transfer can legally be made; and, if no balance remain at the end of the year, and the new naval appropriation bills have not passed, payment is entirely stopped, or the whole operations of this Department dependent on them are suspended. Considering how large a part of these operations and of our expenditures necessarily takes place in distant quarters of the world, it will be seen that the embarrassment of this branch of the service must often be peculiar and aggravated. In the case of bills of exchange drawn abroad, chargeable to the appropriations already exhausted, the public faith, under the above circumstances, is sometimes in danger of being violated, our credit in foreign countries becomes injured, and the Treasury (as actually happened during the last winter) is exposed to large losses, if the holders choose to resort to protests and claims for the mercantile rate of damages.

Under the present system of passing so late the naval appropriation bills, it happens that, unless money voted under one head is, without authority, (as was once the practice,) applied under other heads, this unfortunate condition continues every short session of Congress about two months, and every long session about four months. It can easily be remedied in two methods: one of them is, to make, previous to the 1st of January, new appropriations for a quarter or half of the year towards all permanent objects. By limiting them to such a time and to such objects, and by taking the estimates of the former year as a guide, no inconvenience will interpose, and no error can occur, which may not be readily corrected when

the residue of the appropriations for the whole year is voted at a later period in the session. Another mode is, to authorize the President to make necessary transfers from one head to another, in all cases where the new naval appropriation bills do not pass by the commencement of the year, and to require from him a report to Congress of the amount and causes of such transfers. If the authority be thus restricted, it is difficult to discover any danger likely to result from its exercise; and it is believed that the surplus or balances on hand under some of the appropriations would usually prove sufficient to supply the wants under others. The detail and earnestness with which legislation on this subject is now urged, must find their excuse in my strong convictions that no measure whatever, requiring, like this, no increased expenditures, could be more conducive to the reputation and efficient operations of our naval establishment. Thus, sir, under an examination of its central administration, of its personal, or civil and navy list, of its materials, with the appertenances thereto, and of its miscellaneous concerns, I have submitted a review of all its transactions and expenditures during the past year, that possess any great degree of importance. This has been accompanied by suggestions for such improvements as observation and reflection have convinced me might be useful; and should they meet with the approbation of yourself and Congress, I look forward, with confidence, to a long continuance of prosperity in the affairs connected with this Department.

With great respect, yours, &c.

LEVI WOODBURY.

To the President *of the United States.*

Navy Commissioners' Office,
12th September, 1833.

Sir: The Commissioners have to acknowledge the receipt of your letter of yesterday, enclosing a communication from Lieutenant Wilkes, upon the subject of a lithographic press for the use of the Navy Department, and requiring an opinion upon the propriety of purchasing one.

The Commissioners are fully of opinion that the possession and employment of such a press would be both useful and economical: as, besides the various uses enumerated by Lieutenant Wilkes, it may, in their opinion, be applied to the printing of all the various forms required by the disbursing officers and officers of the navy yards, which would at once combine uniformity, which is highly desirable, with a great saving of expense.

The communication of Lieutenant Wilkes is herewith returned.

I have the honor to be, with great respect, &c.,

JOHN RODGERS.

Hon. Levi Woodbury, *Secretary of the Navy.*

Washington City, *Aug.* 23, 1833.

Sir: In reply to your letter of the 27th of July, I have the honor to report that I have made very many inquiries relative to a lithographic press, the result of which is, that they can be had for from thirty-five to one hundred and fifty dollars, according to the size, goodness, and strength of material of which they are constructed; this is exclusive of rollers, ink, and stones. The rollers and ink will cost about thirty dollars, and the stones are to be had at ten cents the pound. Presuming your object to be usefulness and economy combined, I submit the following as my estimate of the cost of a suitable one for the printing of charts, viz:

Cost of press, - - - -	$120
Rollers and ink, - - - -	30
500 pounds of stone, at ten cents -	50
	$200

For the maintenance of the press, there will be required a printer, and a laborer to assist in working the press when the impressions are striking off. The pay of a printer is from $10 to $14 a week in New York, and no one who understands the art can be had under that price. The laborer's services would only be required occassionally, and it would be, therefore, preferable to hire him when wanted, until the press was in full operation, and constantly employed. Therefore, I should estimate the maintenance of a press as follows, for a year:

Lithographic printer, at $50 per month -	$600
Contingencies, including labor, paper, &c., -	100
	$700

So that the purchase and maintenance of the press for the first year would be nine hundred dollars.

I have made many inquiries relative to the cost of the charts that could be printed on a press, for the last ten years, and regret that I have not been able to obtain any information for you, having been informed by the accounting officers that all the accounts of the navy agents and pursers, both at home and abroad, that served in the navy for that time, would have to be consulted, which would require, as they inform me, a period of six months. I am equally at a loss to inform you of the amount that has probably been expended in the service for those purposes.

In the place of this information, I can offer many reasons for the advantages to be derived from such an establishment, which will probably tend to satisfy you that the expenditure would not be thrown away. In the first place, all the charts now on hand might be made serviceable, by correcting the erroneous parts, viz. by annexing to them small lithographics of those parts corrected, which charts cannot now be supplied to our public vessels without endangering the public property in some degree, thus making what is now worthless valuable. In the second place, charts of harbors and coasts might be furnished our vessels on large and accurate scales, (and which are alone published by the English and French hydrographical offices,) that cannot now be bought. 3dly. Errors that had been discovered by navigators (which are of frequent occurrence) could be immediately corrected, which the publishers of charts wholly neglect, or are slow in doing, not only on account of the expense in altering the plate, but the loss in not being able to sell the impression they have on hand. 4thly. The ease and small expense at which it would enable the Government to extend any hydrographical information to the mercantile marine, and to imbody at once, in a useful shape, all hydrographical information that may be obtained. It is believed that many disasters to vessels would be prevented by having small sections of charts, showing the situations of dangers, to enable navigators fully to comprehend them, at once serving to dissipate any erroneous description, and making it clear to the most common understanding. The opportunity of obtaining hydrographical information well authenticated, and illustrated on charts, would facilitate the insurance of vessels, and equalize the risk between the insurer and insured: for the want of this information, and nowhere to obtain it sufficiently authenticated, many merchants are now denied this privilege, and others receive it at a large premium. As it is one of the great objects of our Government to afford facilities to its commerce, and spread useful information, there are few ways in which more valuable information could be spread at so small expense, than by the establishment of a lithographic press connected with this office, which would not only receive the information, but be enabled to put it in immediate circulation; at the same time that it is a great economy in furnishing the navy with charts, and those that cannot be obtained elsewhere. 5thly. As the coast survey progresses, it would enable the Government to issue copies at little

more than the price of the paper, which alone, contrasted with the amount now expending by Congress in the publication of the survey of Narragansett bay, would have bought and maintained a lithographic press for three or four years. In connexion with all this, it might be employed in printing off circulars for the Department. All this, I am of opinion, would occupy a press fully, and could not be obtained by even employing another printer at the press of the War Department, (which would be the same expense, except the first cost of the press,) as the time of printing could not be at our own disposal, which is a material consideration in the success of the operation, being very much influenced by the state of the temperature. These are some of the prominent objects that have appeared to me to be embraced in your letter, and which I have the honor respectfully to submit to your consideration.

I am your most obedient servant,

CHARLES WILKES, Jr.,

Lt. U. S Navy, in charge of charts, instruments, &c.

Hon. Levi Woodbury, *Sec'ry of the Navy.*

REPORT OF THE POSTMASTER GENERAL.

General Post Office Department,
November 30, 1833.

To the President *of the United States:*

Sir: When, in 1829, the functions of this Department devolved upon me, the annual transportation of the mail amounted to 13,700,000 miles. The contracts then in existence, with the other expenses of the Department, had, within the year ending the 30th June, 1829, diminished its surplus revenue $101,256 03; and those contracts were still in force from one to four years in prospect.

The surplus available revenue had been reduced to the nominal amount of - - - -	$230,849 07
But it has subsequently been ascertained that there had been expenses incurred for transportation performed prior to the 1st of July, 1829, which were not embraced in that account, to the amount of - -	64,248 76
Which reduced the real surplus to -	$166,600 31

The annual transportation of the mail was, on the 1st July, 1833, 26,854,485 miles.

The annual amount of the transportation of the mail in stages and steamboats, on the 1st of July, 1829, was 6,507,818 miles.

The annual amount of the transportation of the mail in stages and steamboats, on the 1st of July, 1833, was 18,322,576 miles.

The expense of transporting the mail for the year ending 30th June, 1829, was $1,153,646 61.

The expense of transporting the mail for the year ending 30th June, 1833, was $1,894,688 08.

The gross amount of postages, constituting the revenues of the Department, was, for the year ending 30th June, 1829, $1,707,418 42.

The gross amount of postages for the year ending 30th June, 1833, was $2,616,538 27.

The incidental expenses of the Department for the year ending 30th June, 1829, amounted to $69,249 08.

The incidental expenses of the Department for the year ending 30th June, 1833, amounted to $87,701 61.

The number of post offices in the United States on the 1st of July, 1829, was 8,004.

On the 1st of July, 1833, the number of post offices in the United States was 10,127.

The increase of the annual transportation of the mail within the four years ending the 30th June, 1833, is 13,154,485 miles, nearly equal to the whole amount of transportation in 1829.

The increase of the annual amount of postages within the same period is $909,119 85, and the whole amount is more than the double of what it was in 1825.

The average expense of transporting the mail in 1829 was eight cents and four-tenths of a cent per mile.

The average expense of transporting the mail in 1833 is seven cents and fifty-seven hundredths of a cent per mile, making a difference in the rate per mile of eighty-three hundredths of a cent; equal, for the whole service, to $222,892 22 per year less, in proportion to the service performed, than the expense of transportation in 1829; besides, a great increase in expedition between the principal commercial cities, and a much greater proportion of the whole performed in stages.

After carrying into effect the law of the last Congress establishing new mail routes, the present length of mail roads in the United States amounts to 119,916 miles, viz.

	Miles.		*Miles.*
In Maine, - -	3,824	In Florida, - -	1,131
New Hampshire,	2,460	Alabama, - -	4,433
Vermont, - -	2,531	Mississippi, -	2,462
Massachusetts, -	4,845	Louisiana, - -	1,462
Rhode Island, -	491	Arkansas, - -	2,309
Connecticut, -	2,701	Tennessee, -	6,761
New York, -	13,256	Kentucky, -	5,993
New Jersey, -	1,961	Ohio, - -	8,977
Pennsylvania -	11,010	Michigan, - -	1,465
Delaware, - -	494	Indiana, - -	5,361
Maryland, - -	2,102	Illinois, - -	4,459
Virginia, - -	10,588	Missouri, - -	2,170
North Carolina, -	6,850		
South Carolina, -	4,516	Making together,	119,916
Georgia, - -	5,274		

Over these roads, the annual transportation of the mail on the 1st of July last, was—

States.	In stages.	In steamboats.	Horseback and in sulkies.	Total.
In Maine,	708,184	3,328	267,010	978,522
N. Hampshire,	622,238	–	111,854	734,093
Vermont,	634,666	–	106,260	740,926
Massachusetts,	1,563,640	23,712	150,037	1,737,389
Rhode Island,	117,988	–	16,692	134,680
Connecticut,	598,987	17,376	175,608	791,971
New York,	3,053,558	155,339	854,937	4,063,834
New Jersey,	548,330	–	100,840	649,170
Pennsylvania,	2,414,801	–	762,873	3,177,674
Delaware,	92,674	–	17,264	109,938
Maryland,	585,792	58,380	161,588	805,760
Virginia,	1,277,846	88,500	778,906	2,145,252
N. Carolina,	829,415	15,288	427,076	1,271,779
S. Carolina,	658,524	–	275,548	934,072
Georgia,	368,012	–	498,626	866,638
Florida,	47,112	41,600	86,612	175,324
Alabama,	429,978	96,360	353,652	579,990
Mississippi,	78,002	–	282,756	360,758
Louisiana,	48,516	15,704	156,676	220,896
Arkansas,	–	–	231,556	231,556
Tennessee,	513,453	–	502,320	1,015,773
Missouri,	79,508	–	184,184	263,692
Kentucky,	628,072	45,000	540,240	1,213,312
Illinois,	236,522	–	293,278	529,800
Indiana,	196,268	21,000	487,814	705,082
Ohio,	1,216,801	47,150	618,190	1,882,141
Michigan,	144,952	–	89,512	234,464
Total,	17,693,839	628,737	8,531,909	26,854,485

The increase of transportation from the 1st of July, 1832, to the 1st July, 1833, has been—

In stages, - - -	1,471,096	miles.
In steamboats, - -	129,436	do.
On horseback and in sulkies,	1,628,932	do.
Making together, -	3,229,464	

The method in which the accounts of the expenses of transporting the mail have always been kept in this Department, has led to a misapprehension of the means of extending improvements in mail facilities. It appears, from the earliest records of the Department, to have been a rule not to enter to the credit of a contractor, nor to charge to the account of transportation, the expense of carrying the mail on his route, till after he had signed his contract and bond, and returned them to the Department with proper security, though the service may have been regularly performed, and, in many instances, the moneys actually paid. It has sometimes happened that contracts of the greatest magnitude have, from various causes, remained for more than a year unreturned. In such cases, though the expenses have been incurred, they do not appear in the transportation account, and though the moneys may have been paid to the contractors, they stand on the books as balances to that amount due from them to the Department, constituting a part of its surplus fund: when, in fact, they constitute a part of the actual expense incurred for the transportation of the mail. The consequence has been, that the expense for transporting the mail within any given period of time, as shown in the accounts, and reported annually through the Executive, have been always calculated to exhibit an amount considerably less than what has actually been incurred. This is an imperfection not of recent origin, but one which appears to have been co-existent with the Department. When the number of contracts was few, and the surplus revenue bore a large ratio to its whole annual amount, the effect was unimportant; but in the increased number of mail routes, and the diminution of its surplus revenue, it was calculated to produce serious inconvenience. From the statements growing out of this system, thus illusory in their results, together with the great expense of carrying into effect the law of the last Congress establishing new mail routes, and a disposition to gratify the wishes of the public in the improvement of mail facilities, I was led to carry those improvements to an extent which it was found the resouces of the Department would not well sustain. When the inconvenience was felt, the cause was carefully investigated, and the following result was disclosed. Prompt directions were given for the correction of the error in future. It is not possible to determine, to an exact certainty, the whole expense incurred for transportation within any recent period; because it will often happen that improvements will become necessary, even for the fulfilment of existing laws, the expenses of which, for want of proper evidence, must be reserved for subsequent adjustment, and so come into the account for a later period than that in which the services were performed. But these variations are of an inconsiderable amount compared with the differences resulting from the system heretofore observed.

On the 30th of June, 1829, which was the close of the first quarter in which I had assumed the functions of the Department, the expenses which had been incurred for transporting the mail were $64,248 76 more than the amount stated in my report to that day.

On the 1st day of July, 1832, the date to which my last report reaches, there was stated to be a surplus of available funds, after defraying all the expenses of the Department up to that day, of - - $202,811 40

It is however now ascertained that the expenses incurred for transportation, which had actually been performed prior to the 1st July, 1832, beyond the amount stated in that report, were - - - - 205,656 07

So that, instead of a surplus on that day, the Department was actually indebted on 1st day of July, 1832, beyond the whole amount of its available funds, admitting that no losses of postages should be sustained, - - - - - 2,844 67

The gross amount of postages for the year ending the 30th June, 1832, was 2,558,570 17

The gross amount of postages for the year ending the 30th June, 1833, was 2,616,538 27

Making an increase for the year over the former year, of - - - - $357,968 10

The nett proceeds of postages, after deducting commissions to postmasters, and the contingent expenses of their offices, for the year ending the 30th June, 1832, was 1,543,098 49

For the year ending June 30, 1833, it was 1,790,254 65

Making an increase of nett proceeds for the year, of - - - - 247,156 16

The expenses of the Department incurred for the year ending June 30, 1833, were as follows, viz.

Compensation to postmasters, including the contingent expenses of their offices—		
Third quarter, 1832,	$202,431 26	
Fourth quarter,	200,151 51	
First quarter, 1833,	214,925 50	
Second quarter,	208,765 35	
		826,283 62
Transportation of the mail—		
Third quarter, 1832,	435,892 95	
Fourth quarter,	441,183 01	
First quarter, 1833,	499,185 96	
Second quarter,	518,426 16	
		1,894,688 08
Incidental expenses for the year,		87,701 61
Making together,		2,808,673 31

The gross amount of postages for the same period was—

Third quarter, 1832,	642,689 22	
Fourth quarter,	630,464 47	
First quarter, 1833,	673,957 67	
Second quarter,	669,426 91	
		2,616,538 27
Leaving a deficit of -		192,135 04
Add this sum paid into the Treasury by irregular deposites, having been placed by the receiving officer to the credit of that department instead of this, - -		228 69
The balance due by the Department on the 1st July, 1832, as above stated, -		2,844 67
And the Department was indebted on the 1st July, 1832, beyond the amount of available balances due to it, in the sum of		195,208 40

The annual expense of transporting the mail under existing contracts, with all their improvements, is - - - - 2,033,289 42

The incidental expenses of the Department, estimated at - - - 90,000 00

Making the aggregate expense for a year 2,123,289 42

The nett proceeds of postages for the year ending 30th June, 1333, amounted to - - - $1,790,254 65

The nett increase for that year over the preceding year, and which may be safely estimated as continuing, was - - -	247,156 16	
Making the nett revenue for the current year, - - - - -		2,037,410 81
Leaving a deficit of - - -		$85,878 61

The former method of keeping the accounts of the expenses of transportation, would have left out of this report expenses for transportation, as if it had not been incurred, because not entered under their proper dates, the sum of $91,658 82, viz.

For services performed prior to July 1, 1832,	$22,294 44
For services performed during third quarter, 1832, - - - - - -	9,420 50
fourth quarter, 1832,	9,932 21
first quarter, 1833,	22,872 70
second quarter, 1833,	27,138 97
Making together, - - -	$91,658 82

This, had the imperfection of that system remained unobserved, would have made the Department appear to be less indebted by that amount, than what it is in reality.

The discovery of the excess of expenditures beyond its revenues, at once showed the necessity of retrenchment. The only practicable means of doing this was the withdrawal of some of the improvements which had been made, and on such routes as would be least injurious to the public, and least prejudicial to the revenues of the Department.

This has been done with great care and attention to these two points. The reductions have been directed in the transportation to take effect from the 1st of January next, to the annual amount of - - $202,370

The contracts have been renewed for the Southwestern section, comprising the States of Louisiana, Mississippi, Alabama, Tennessee, Missouri, Illinois, and Indiana, and the Territory of Arkansas, with a greater amount of improvements than curtails, at an annual saving of - - - - - 71,893

Making together an annual retrenchment in the expenses of the Department, of - $274,263

In making these retrenchments, many of the principal contractors who were to be affected by them, seeing the necessity which induced the measure, have readily declared their cordial acquiescence in it; and, with a patriotic spirit, becoming their character, have shown a determination to sustain the Department as a paramount object, at any sacrifices which it may require on their part.

After the reductions shall take effect, the annual transportation of the mail will still be 25,527,957 miles, viz.

States.	In stages.	In steamboats.	Horseback and in sulkies.	Total.
In Maine,	635,402	3,328	271,274	910,004
N. Hampshire	622,238	–	111,854	734,092
Vermont,	636,122	–	104,076	740,198
Massachusetts,	1,553,248	23,712	145,229	1,722,189
Rhode Island,	117,988	–	16,692	134,680
Connecticut,	587,739	17,376	175,608	780,723
New York,	2,982,638	155,339	884,229	4,022,206
New Jersey,	517,854	–	100,840	618,694
Pennsyvania,	2,080,929	–	764,329	2,845,258
Delaware,	104,010	–	17,264	121,274
Maryland,	570,726	58,380	161,588	790,694
Virginia,	1,044,246	46,900	778,906	1,870,052
N. Carolina,	733,423	15,288	413,660	1,162,371
S. Carolina,	602,256	–	275,548	877,804
Georgia,	278,024	–	498,626	776,650
Florida,	47,112	41,600	86,612	175,324
Alabama,	429,978	96,360	353,652	879,990
Mississippi,	78,002	–	282,756	360,758
Louisiana,	48,516	15,704	156,676	220,896
Arkansas,	–	–	231,556	231,556
Tennessee,	513,453	–	502,320	1,015,773
Kentucky,	586,902	45,000	526,824	1,158,816
Ohio,	1,005,369	47,150	617,358	1,669,877
Michigan,	112,088	–	97,416	209,504
Indiana,	196,268	21,000	487,814	705,082
Illinois,	236,522	–	293,278	829,800
Missouri,	79,508	–	184,184	263,692
Total,	16,400,651	587,137	8,540,169	25,527,957

Thus, it will appear that but a part of the improvements will be withdrawn to enable the Department still to rely exclusively on its own resources, as the annual transportation will still be, after the 1st of January next, 1,902,936 miles more than it was on the 1st July, 1832.

I have the honor to be, very respectfully,

W. T. BARRY.

REMOVAL OF PUBLIC DEPOSITES.

Letter from the Secretary of the Treasury, transmitting a report upon the subject of the removal of the Public Deposites from the Bank of the United States.

TREASURY DEPARTMENT, *Dec'r* 3, 1833.

To the Hon. ANDREW STEVENSON,
Speaker of the House of Representatives.

SIR: In pursuance of the power reserved to the Secretary of the Treasury by the act of Congress entitled "An act to incorporate the subscribers to the Bank of the United States," I have directed that the deposites of the money of the United States shall not be made in the said bank or branches thereof, but in certain State banks which have been designated for that purpose; and I now proceed to lay before Congress the reasons which induced me to give this order and direction.

The sixteenth section of the law above mentioned is in the following words: "And be it further enacted, that the deposites of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case, the Secretary of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session, the reasons of such order or direction."

It has been settled by repeated adjudications, that a charter granted by a State to a corporation like that of the Bank of the United States, is a contract between the sovereignty which grants it and the stockholders. The same principle must apply to a charter granted by the United States; and consequently the act incorporating the bank is to be regarded as a contract between the United States of the one part, and the stockholders of the other; and by the plain terms of the contract, as contained in the

section above quoted, the stockholders have agreed that the power reserved to the Secretary over the deposites shall not be restricted to any particular contingencies, but be absolute and unconditional, as far as their interests are involved in the removal. The order, therefore, of the Secretary of the Treasury directing the public money to be deposited elsewhere, can in no event be regarded as a violation of the contract with the stockholders, nor impair any right secured to them by the charter. The Treasury Department being intrusted with the administration of the finances of the country, it was always the duty of the Secretary, in the absence of any legislative provision on the subject, to take care that the public money was deposited in safe keeping, in the hands of faithful agents, and in convenient places, ready to be applied according to the wants of the Government. The law incorporating the bank has reserved to him, in its full extent, the power he before possessed. It does not confer on him a new power, but reserves to him his former authority without any new limitation. The obligation to assign the reasons for his direction to deposite the money of the United States elsewhere, cannot be considered as a restriction of the power, because the right of the Secretary to designate the place of deposite was always necessarily subject to the control of Congress. And as the Secretary of the Treasury presides over one of the Executive Departments of the Government, and his power over this subject forms a part of the executive duties of his office, the manner in which it is exercised must be subject to the supervision of the officer to whom the constitution has confided the whole executive power, and has required to take care that the laws be faithfully executed.

The faith of the United States is, however, pledged, according to the terms of the section above quoted, that the public money shall be deposited in this bank, "unless the Secretary of the Treasury shall otherwise order and direct." And as this agreement has been entered into by Congress in behalf of the United States, the place of deposite could not be changed by a legislative act, without disregarding a pledge which the Legislature has given; and the money of the United States must, therefore, continue to be deposited in the bank until the last hour of its existence, unless it shall be otherwise ordered by the authority mentioned in the charter. The power over the place of deposite for the public money would seem properly to belong to the Legislative department of the Government. And it is difficult to imagine why the authority to withdraw it from this bank was confided exclusively to the Executive. But the terms of the charter appear to be too plain to admit of question. And although Congress should be satisfied that the public money was not safe in the care of the bank, or should be convinced that the interests of the people of the United States imperiously demanded the removal, yet the passage of a law directing it to be done would be a breach of the agreement into which they have entered.

Assuming this to be the true construction of the charter to the bank, it must be the duty of the Secretary of the Treasury to withdraw the deposites of the public money from that institution, whenever the change would, in any degree, promote the public interest. It is not necessary that the deposites should be unsafe, in order to justify the removal. The authority to remove is not limited to such a contingency. The bank may be perfectly solvent, and prepared to meet promptly all demands upon it; it may have been faithful in the performance of its duties, and yet the public interest may require the deposites to be withdrawn. And as that cannot be done without the action of this Department, the Secretary of the Treasury would betray the trust confided to him, if he did not cause the deposites to be made elsewhere, whenever the change would advance the public interests or convenience. The safety of the deposites, the ability of the bank to meet its engagements, its fidelity in the performance of its obligations, are only a part of the considerations by which his judgment must be guided. The general interest and convenience of the people must regulate his conduct.

This principle was distinctly asserted by Mr. Crawford, when he was the Secretary of the Treasury, soon after the bank obtained its charter. In a postscript to his letter to the President of the Mechanics' Bank of New York, dated February 13, 1817, he says, "The Secretary of the Treasury will always be disposed to support the credit of the State banks, and will, invariably, direct transfers from the deposites of the public money, in aid of their legitimate exertions to maintain their credit. But as the proposition of the Bank of the United States excludes the idea of pressure on its part, no measure of that nature appears to be necessary at this time." Other passages in the correspondence of Mr. Crawford with the banks, about the period above mentioned, might be referred to, equally indicating the same opinion; and, at that day, no doubt seems to have been entertained of the power or of the duty of the Secretary, in relation to this subject. It does not appear to have been then even suggested that the right of removal depended on the solvency of the bank, or the safety of the public money committed to its custody; on the contrary, in the passage above quoted, the superior safety of the State banks is by no means regarded as necessary to give him the right to make the transfer to them; for he declares that he will give the deposites to the State banks, on account of their weakness, and to protect them from the Bank of the United States, if, by means of its superior strength, it sought to oppress them. Nor can any distinction be taken between the transfer of a part, and the transfer of the whole sum remaining on deposite. The language of the charter recognises no such distinction; and the principle asserted by Mr. Crawford would have led him to the removal of the whole amount of the public money to the State banks, if a pressure on the part of the Bank of the United States had rendered such a measure necessary, in order to support the State banks "in their legitimate exertions to maintain their credit."

The language of the law, therefore, and the usage and practice of the Government under it, establish the following principles:

1st. That the power of removal was intended to be reserved exclusively to the Secretary of the Treasury, and that, according to the stipulations in the charter, Congress could not direct it to be done.

2d. That the power reserved to the Secretary of the Treasury does not depend for its exercise merely on the safety of the public money in the hands of the bank, nor upon the fidelity with which it has conducted itself; but he has the right to remove the deposites, and it is his duty to remove them whenever the public interest or convenience will be promoted by the change.

Taking these two principles as unquestionable, I proceed to state the reasons which induced me to believe that it was necessary for the interest and convenience of the people that the Bank of the United States should cease to be the depository of the public money.

The charter of the bank will expire, according to the existing law on the subject, on the 3d of March, 1836; and for two years after the termination of the charter, it is authorized to use the corporate name for the final settlement and liquidation of the affairs and accounts of the corporation, and for the sale and disposition of their estate, but not for any other purpose. It is the duty of the Executive Departments of the Government to exercise the powers conferred on them, and to regulate the discretion confided to them, according to the existing laws; and they cannot be allowed to speculate on the chances of future changes, by the legislative authority. Perhaps there may be cases in which the discretion vested in an Executive Department might, with propriety, be in some degree in-

fluenced by the expectation of future legislation; but they must be cases in which the principles of justice, or the public interests, manifestly call for an alteration of the law; or where some expression of the public opinion has strongly indicated that a change will probably be made. But where nothing of this kind exists, an Executive officer of the Government is not authorized to regulate a discretion which the law has intrusted to him, upon the assumption that the law will be changed.

In deciding upon the course which it was my duty to pursue in relation to the deposites, I did not feel myself justified in anticipating the renewal of the charter on either of the above-mentioned grounds. It is very evident that the bank has no claim to renewal founded on the justice of Congress. For, independently of the many serious and insurmountable objections which its own conduct has furnished, it cannot be supposed that the grant to this corporation, of exclusive privileges, at the expense of the rest of the community for twenty years, can give it a right to demand the still further enjoyment of its profitable monopoly. Neither could I act upon the assumption that the public interest required the recharter of the bank; because I am firmly persuaded that the law which created this corporation in many of its provisions is not warranted by the constitution; and that the existence of such a powerful moneyed monopoly is dangerous to the liberties of the people, and to the purity of our political institutions.

The manifestations of public opinion, instead of being favorable to a renewal, have been decidedly to the contrary. And I have always regarded the result of the last election of President of the United States as the declaration of a majority of the people that the charter ought not to be renewed. It is not necessary to state here what is now a matter of history. The question of the renewal of the charter was introduced into the election by the corporation itself. Its voluntary application to Congress for the renewal of its charter four years before it expired, and upon the eve of the election of President, was understood on all sides as bringing forward that question for incidental decision at the then approaching election. It was accordingly argued on both sides before the tribunal of the people, and their verdict pronounced against the bank by the election of the candidate who was known to have been always inflexibly opposed to it.

Under these circumstances, I could not have been justified, upon either of the grounds above mentioned, in anticipating any change in the existing laws in relation to the bank; and as the act of Congress which created the corporation, limits its duration to the 3d of March, 1836, it became my duty, as Secretary of the Treasury, in executing the trust confided to me under the law, to look to that period of time as the termination of its corporate existence. I had no sufficient grounds for presuming that the law would be altered in this respect by future legislation, and a new charter be granted to the bank. It was, therefore, incumbent upon me, in discharging my official duties, to act upon the assumption that this corporation would not continue in being after the time above specified. And in this state of things, without any reference to the manner in which the bank had conducted itself, it became necessary to decide whether the deposites ought to remain in the bank until the end of its corporate life, or be removed at some earlier period. In forming my opinion on this subject, I could only inquire which of these measures would most conduce to the public good.

It is obvious that the interests of the country would not be promoted by permitting the deposites of the public money to continue in the bank until its charter expired. Judging from the past, it is highly probable that they will always amount to several millions of dollars. It would evidently produce serious inconvenience, if such a large sum were left in possession of the bank until the last moment of its existence, and then be suddenly withdrawn, when its immense circulation is returning upon it to be redeemed, and its private depositors removing their funds into other institutions. The ability of the bank, under such circumstances, to be prompt in its payments to the Government, may well be doubted, even if the ultimate safety of the deposites could be relied upon. Besides, the principal circulating medium now in the hands of the people, and the one most commonly used in the exchange between distant places, consists of the notes of the Bank of the United States, and its numerous branches. The sudden withdrawal of its present amount of circulation, or its sudden depreciation before any other sound and convenient currency was substituted for it, would certainly produce extensive evils, and be sensibly felt among all classes of society.

It is well understood that the superior credit heretofore enjoyed by the notes of the Bank of the United States, was not founded on any particular confidence in its management or solidity. It was occasioned altogether by the agreement on behalf of the public, in the act of incorporation, to receive them in all payments to the United States; and it was this pledge on the part of the Government which gave general currency to the notes payable at remote branches. The same engagement in favor of any other moneyed institution would give its notes equal credit, and make them equally convenient for the purposes of commerce. But this obligation on the part of the United States will cease on the 3d of March, 1836, when the charter expires; and as soon as this happens, all the outstanding notes of the bank will lose the peculiar value they now possess; and the notes payable at distant places become as much depreciated as the notes of local banks. And if, in the mean time, no other currency is substituted in its place by common consent, it is easy to foresee the extent of the embarrassment which would be caused by the sudden derangement of the circulating medium. It would be too late at that time to provide a substitute which would ward off the evil. The notes of the Bank of the United States in circulation on the 2d of September last, which was the date of the latest return before me, when the order for removal was given, amounted to $18,413,287 07, scattered in every part of the United States. And if a safe and sound currency were immediately provided, on the termination of the charter, to take the place of these notes, it would still require time to bring it into general use, and, in the interim, the people would be subjected to all the inconveniences and losses which necessarily arise from an unsound state of the currency. The evil would be so great, and the distress so general, that it might even compel Congress against its wishes to recharter the bank. And perhaps more effectual means could hardly be devised for ensuring the renewal of the charter. It is evident that a state of things so much to be deprecated can only be avoided by timely preparation; and the continuance of the deposites can only be justified by the determination to renew the charter. The State banks can, I have no doubt, furnish a general circulating medium, quite as uniform in value as that which has been afforded by the Bank of the United States. Probably more so. For it is well known that in some of the cities the branches of the bank have been in the habit, whenever they thought proper, of refusing to honor the notes of their own bank, payable at other branches, when they were not offered in discharge of a debt due to the United States. But a currency founded on the notes of State banks could not be suddenly substituted for that heretofore furnished by the Bank of the United States, and take the place of it, at the same moment, in every part of the Union. It is esssential that the change should be gradual, and sufficient time should be allowed to suffer it to make its way by the ordinary operations of commerce, without requiring a hasty and violent effort.

In this view of the subject, it would be highly injudicious to suffer the deposites to remain in the Bank of the United States until the close of its corporate existence. And as they cannot be withdrawn without the action of the Secretary of the Treasury, it must unavoidably become his duty, at some period of time, to exercise the power of removal. Laying aside, therefore, for the present, all the considerations which the misconduct of the bank has furnished, the question presented to this Department was, how long could the removal be delayed consistently with the public interests? It is a question of *time* only. The duty must be performed at some period, and could not be altogether omitted, without justly incurring a heavy responsibility to the community for all the consequences that might follow. And it is, I think, apparent that the measure was delayed as long as was compatible with the interest of the people of the United States.

The monthly statement of the bank, of the 2d September last, before referred to, shows that the notes of the bank and its branches, then in circulation, amounted to $18,413,287 07, and that its discounts amounted to the sum of $62,653,359 59. The immense circulation above stated, pervading every part of the United States, and most commonly used in the business of commerce between distant places, must all be withdrawn from circulation when the charter expires. If any of the notes then remain in the hands of individuals, remote from the branches at which they are payable, their immediate depreciation will subject the holders to certain loss. Those payable in the principal commercial cities would, perhaps, retain nearly their nominal value; but this would not be the case with the notes of the interior branches, remote from the great marts of trade. And the statements of the bank will show that a great part of its circulation is composed of notes of this description. The bank would seem to have taken pains to introduce into common use such a description of paper as it could depreciate, or raise to its par value, as best suited its own views; and it is of the first importance to the interests of the public that these notes should all be taken out of circulation, before they depreciate in the hands of the individuals who hold them; and they ought to be withdrawn gradually, and their places supplied, as they retire, by the currency which will become the substitute for them. How long will it require, for the ordinary operations of commerce, and the reduction of discounts by the bank, to withdraw the amount of circulation before mentioned, without giving a shock to the currency, or producing a distressing pressure on the community? I am convinced that the time which remained for the charter to run, after the 1st of October, (the day on which the first order for removal took effect,) was not more than was proper to accomplish the object with safety to the community. And if it had depended upon my judgment at an earlier period, I should have preferred and should have taken a longer time. Enough, however, is yet left, provided no measures are adopted by the bank for the purpose of inflicting unnecessary suffering upon the country. Apart therefore from any considerations arising out of the conduct of the bank, and looking merely to the near approach of the day when it would cease to exist, the withdrawal of the deposites appeared to be required by the public interest, at the time when the first order for removal was given by this Department.

This opinion is confirmed by the ground taken in favor of the renewal of the charter, at December session, 1831. It was then urged that the short period which yet remained of its corporate existence, and the necessity of preparing to wind up its concerns, if the charter was not to be renewed, made it proper that the question should at once be decided. Very little more than half of that time yet remains. And although I do not concur in the opinions then expressed, and believe that the application was ill-timed and premature, yet the arguments then relied on, by many whose judgment is entitled to respect, afford strong grounds for concluding that the measure now adopted is not objectionable on the score of time; and that if the deposites were not to continue in the bank until the termination of its charter, their withdrawal could not with propriety be longer delayed.

There is, however, another view of the subject, which in my opinion, made it impossible further to postpone the removal. About the 1st of December, 1832, it had been ascertained that the present Chief Magistrate was re-elected, and that his decision against the bank had thus beed sanctioned by the people. At that time the discounts of the bank amounted to $61,571,625 66. Although the issue which the bank took so much pains to frame had now been tried, and the decision pronounced against it, yet no steps were taken to prepare for its approaching end. On the contrary, it proceeded to enlarge its discounts, and, on the 2d of August, 1833, they amounted to $64,160,349 14, being an increase of more than two and a half millions in the eight months immediately following the decision against them. And so far from preparing to arrange its affairs with a view to wind up its business, it seemed from this course of conduct, to be the design of the bank to put itself in such an attitude, that, at the close of its charter, the country would be compelled to submit to its renewal, or to bear all the consequences of a currency suddenly deranged, and also a severe pressure for the immense outstanding claims which would then be due to the corporation. While the bank was thus proceeding to enlarge its discounts, an agent was appointed by the Secretary of the Treasury to inquire upon what terms the State banks would undertake to perform the services to the Government which have heretofore been rendered by the Bank of the United States; and also to ascertain their condition in four of the principal commercial cities, for the purpose of enabling the Department to judge whether they would be safe and convenient depositories for the public money. It was deemed necessary that suitable fiscal agents should be prepared in due season, and it was proper that time should be allowed them to make arrangements with one another throughout the country, in order that they might perform their duties in concert, and in a manner that would be convenient and acceptable to the public. It was essential that a change so important in its character, and so extensive in its operation upon the financial concerns of the country, should not be introduced without timely preparation. There was nothing in this proceeding, nor in the condition of the bank, which should at that time have produced a sudden and entire change of its policy. For, in addition to the ordinary receipts from bonds given on account of previous importations, the season was at hand when the cash duties on woollens might well be expected to be very productive, and from these two sources the receipts from the customs were in fact unusually large, and the amount of the public deposites in the bank proportionably heavy. The capacity of the bank, therefore, at this time, to afford facilities to commerce, was not only equal, but greatly superior to what it had been for some time before; and the nature of the inquiry made of the State banks, confined as it was to the four principal commercial cities, showed that the immediate withdrawal of the entire deposites from the bank, so as to distress it, was not contemplated. And if any apprehensions to the contrary were felt by the bank, an inquiry at this Department would no doubt have been promptly and satisfactorily answered. And certainly it was the duty of the bank, before it adopted a course oppressive to the whole country, to be sure of the ground on which it acted. It can never be justified for inflicting a public injury, by alleging mistaken opinions of its own, when the means of obtaining

information, absolutely certain, were so obviously within its reach. The change was always designed to be gradual, and the conduct of the bank itself has since compelled me to remove a portion of the deposites earlier than was originally intended. There was nothing, therefore, in the inquiry before mentioned, nor in the views of the Executive department, nor in the condition of the bank, which justified a sudden and oppressive change in its policy.

The situation of the mercantile claims also rendered the usual aids of the bank more than ever necessary to sustain them in their business. Their bonds for previous importations were, as before stated, constantly becoming due, and heavy cash duties were almost daily to be paid.

The demands of the public upon those engaged in commerce were consequently unusually large, and they had a just claim to the most liberal indulgence from the fiscal agent of the Government, which had for so many years been reaping harvests of profits from the deposites of the public money. But the bank about this time changed its course.

By the monthly statement of the bank, dated 2d August, 1833, it appears that its loans and domestic bills of exchange, purchased and on hand, amounted to	$64,160,349 14
By the monthly statement of the 2d of September, 1833, they appear to have been - - - - - -	62,653,359 59
By that of the 2d of October, 1833, they were - - - - - -	60,094,202 93
Reduction in two months - -	$4,066,146 21
By the same papers it appears that the public deposites, including those for the redemption of the public debt, the Treasurer's, and those of the public officers, were in	
August - - - - - -	$7,599,931 47
September - - - - -	9,182,173 18
October - - - - -	9,868,435 58
Increase of the public deposites in two months - - - - -	$2,268,504 11
Total amount collected in the community,	$6,334,650 32

Thus upwards of six millions of dollars were withdrawn from the business of the country by the Bank of the United States in the course of two months. This, of itself, must have produced a pressure on the money market, affecting all commercial transactions. But the curtailment in the bank accommodations of the community was much larger. The policy adopted by the Bank of the United States, compelled the State banks to take the same course in self-defence; and the Bank of the United States appears to have resorted to the expedient of drawing from the State banks the balances due, in specie, and to have hoarded up the article in its own vaults.

In August, 1833, that bank had in specie, - - - - -	$10,023,677 38
In September, - - - -	10,207,649 20
In October, - - - - -	10,663,441 51
Showing an increase of specie in two months, of - - - - -	$639,764 13

This sum, it is believed, was chiefly drawn from State banks. To fortify themselves, those banks were compelled to call on their debtors, and curtail their accommodations; and so large a proportion of these calls is always paid in their own notes, that, to obtain 100,000 dollars in specie, they are probably obliged to call for four or five times that amount. To replace the specie taken from them by the Bank of the United States, and to provide for their own safety, the State banks, therefore, must have curtailed from two to three millions of dollars. On the whole, it is a fair estimate, that the collections from the community during those two months, without any corresponding return, did not fall much short of nine millions of dollars. As might have been expected, complaints of a pressure upon the money market were heard from every quarter. The balances due from the State banks had, during the same time, increased from $368,969 98 to 2,288,573 19; and from the uncertain policy of the bank, it was apprehended they might suddenly be called for in specie. The State banks, so far from being able to relieve the community, found themselves under the necessity of providing for their own safety.

A very large proportion of the collections of the bank in August and September, were in Philadelphia, New York, and Boston.

In August and September, the curtailment in Philadelphia was	$195,548 69	
Increase of public deposites,	646,846 80	
Actual collections by the bank, -		842,395 49
Increase of public deposites in New York, -	1,396,597 24	
Deduct increase of loans,	331,295 38	
Actual collections by the bank, -		1,065,301 86
Curtailments in Boston,	717,264 45	
Increase of public deposites,	48,069 88	
Actual collections by the bank, -		765,334 33
Total collections in the three cities,		$2,673,031 68

It will be perceived that it was solely through the increase of the public deposites that the bank raised balances against the State banks in New York, and was placed in a situation to take from them, at its pleasure, large sums in specie. And when it is considered that those curtailments and collections of the Bank of the United States necessarily compelled the State banks to curtail also, we shall be at no loss to perceive the cause of the pressure which existed in the commercial cities about the end of the month of September. It was impossible that the commercial community could have sustained itself much longer under such a policy. In the two succeeding months, the collections of the bank would probably have exceeded five millions more, and the State banks would have been obliged to curtail in an equal sum. The reduction of bank accommodations to the amount of nineteen millions of dollars in four months, must have almost put an end to trade; and before the 1st of October this pressure in the principal commercial cities had become so intense, that it could not have been endured much longer without the most serious embarrassments. It was then daily increasing; and from the best information I have been able to obtain, I am persuaded that if the public moneys received for revenue had continued to be deposited in the Bank of the United States for two months longer, and it had adhered to the oppressive system of policy which it pursued during the two preceding months, a widespread scene of bankruptcy and ruin must have followed. There was no alternative, therefore, for the Treasury Department, but to act at once, or abandon the object altogether. Duties of the highest character would not permit the latter course, and I did not hesitate promptly to resort to the former.

I have stated the condition of the mercantile classes at the time of the removal, to explain why it was impossible to postpone it even for a short period. Under other circumstances, I should have been disposed to direct the

removal to take effect at a distant day, so as to give Congress an opportunity of prescribing, in the mean time, the places of deposite, and of regulating the securities proper to be taken. It is true that the power given to the Secretary of the Treasury to remove the deposites from the Bank of the United States necessarily carries with it the right to select the places where they shall aftewards be made. The power of removal cannot be exercised without placing them elsewhere; and the right to select is, therefore, contained in the right to remove. It is also true that, in my judgment, as has already been stated, the public interest would have been advanced if the change had taken place at an earlier period. Yet, as a few months would, in ordinary times, have made no very serious difference, and the removal had already been delayed until the meeting of Congress was approaching, I should have preferred executing the measure in a manner that would have enabled the Legislature to act on the subject in advance of the actual removal, if it had deemed it proper to do so. But the conduct of the bank left me no choice, except between the immediate removal and its final relinquishment. For, if the measure had then been suspended, to be resumed at a future time, it was in the power of the bank to produce the same evil whenever it was again attempted. Putting aside, therefore, from the view of the subject which I am now presenting, all the inducements which grew out of the misconduct of the bank, and regarding only its approaching end, and the intensity of the pressure it was then producing, no further delay was admissible.

The facts and reasons above stated appear to have established the following propositions:

1st. It was the duty of this Department not to act upon the assumption that the legislative power would hereafter change the law in relation to the Bank of the United States; and it was bound to regulate its conduct upon the principle that the existence of this corporation would terminate on the 3d of March, 1836.

2d. The public interest required that the deposites of public money should not continue to be made in the Bank of the United States, until the close of its existence, but should be transferred to some other place, at some period prior to that time.

3d. The power of removal being reserved exclusively to the Secretary of the Treasury, by the terms of the charter, his action was necessary in order to effect it, and the deposites could not, according to the agreement made by Congress with the stockholders, have been removed by the legislative branch of the Government, until the charter was at an end.

4th. The near approach of the time when the charter would expire, as well as the condition of the mercantile community, produced by the conduct of the bank, rendered the removal indispensable at the time it was begun, and it could not have been postponed to a later day, without injury to the country.

Acting on these principles, I should have felt myself bound to follow the course I have pursued in relation to the deposites, without any reference to the misconduct of the bank. But there are other reasons for the removal growing out of the manner in which the affairs of the bank have been managed, and its money applied, which would have made it my duty to withdraw the deposites at any period of the charter.

It will, I presume, be admitted on all hands, that the bank was incorporated in order to create a useful and convenient public agent to assist the Government in its fiscal operations. The act of incorporation was not designed merely as an act of favor to the stockholders, nor were exclusive privileges given to them for the purpose of enabling them to obtain political power, or to amass wealth at the expense of the people of the United States. The motive for establishing this vast monopoly was the hope that it would conduce to the public good. It was created to be the agent of the public; to be employed for the benefit of the people; and the peculiar privileges and means of private emolument, given to it by the act of incorporation, were intended as rewards for the services it was expected to perform. It was never supposed that its own separate interests would be voluntarily brought into collision with those of the public. And still less was it anticipated that it would seek, by its money, to obtain political power, and control the action of the Government, either by the favors it can shower, or the fear of its resentment. Its duty was simply that of an agent, bound to render certain services to its principal, in consideration of the advantages granted to it. And, like every other public agent or officer, its own separate interests were subordinate to its duty to the public. It was bound to consult the general good rather than its private emolument, if they should happen to come in conflict with one another. If, therefore, it sought to obtain political power, or to increase its gains by means which would probably bring distress on the community, it violated its duty, and perverted, to the public injury, the powers which were given to be used for the public good. And, in such an event, it was the duty of the public servants, to whom the trust was reserved, to dismiss it, so far as might lawfully be done, from the agency it had thus abused.

Regarding the bank, therefore, as the agent of the United States, and bound by the duties, and liable to the obligations which ordinarily belong to the relation of principal and agent, except where the charter has otherwise directed, I proceed to state the circumstances which show that it had justly forfeited the confidence of the Government, and that it ought not to have been further trusted as the depository of the public money.

The United States, by the charter, reserved the right of appointing five directors of the bank. It was intended by this means not only to provide guardians for the interests of the public in the general administration of its affairs, but also to have faithful officers, whose situation would enable them to become intimately acquainted with all the transactions of the institution, and whose duty it would be to apprize the proper authorities of any misconduct on the part of the corporation likely to affect the public interest. The fourth fundamental article of the constitution of the corporation declares that not less than seven directors shall constitute a board for the transaction of business. At these meetings of the board, the directors on the part of the United States had of course a right to be present; and, consequently, if the business of the corporation had been transacted in the manner which the law requires, there was abundant security that nothing could be done, injuriously affecting the interests of the people, without being immediately communicated to the public servants, who were authorized to apply the remedy. And if the corporation has so arranged its concerns as to conceal from the public directors some of its most important operations, and has thereby destroyed the safeguards which were designed to secure the interests of the United States, it would seem to be very clear that it has forfeited its claim to confidence, and is no longer worthy of trust. In the ordinary concerns of life, among individuals, no prudent man would continue to place his funds in the hands of an agent, after he discovered that he was studiously concealing from him the manner in which they were employed. The public money ought not to be guarded with less vigilance than that of an individual, and measures of concealment on the part of this corporation are not only contrary to the duties of its agency, but are also in direct violation of the law to which it owes its corporate existence. And the same misconduct which, in the case of private individuals, would induce a prudent man to dismiss an agent from his employment would re-

quire a similar course towards the fiscal agent of the Government, by the officer to whom the law has intrusted the supervision of its conduct, and given the power of removal.

Tried by these principles, it will be found that the conduct of the bank made it the duty of the Secretary of the Treasury to withdraw from its care the public funds.

1st. Instead of a board constituted of at least seven directors, according to the charter, at which those appointed by the United States have a right to be present, many of the most important money transactions of the bank have been, and still are, placed under the control of a committee, denominated the exchange committee, of which no one of the public directors has been allowed to be a member since the commencement of the present year. This committee is not even elected by the board, and the public directors have no voice in their appointment. They are chosen by the president of the bank, and the business of the institution, which ought to be decided on by the board of directors, is, in many instances, transacted by this committee; and no one has a right to be present at their proceedings but the president, and those whom he shall please to name as members of this committee. Thus, loans are made, unknown at the time to a majority of the board, and paper discounted which might probably be rejected at a regular meeting of the directors. The most important operations of the bank are sometimes resolved on and executed by this committee; and its measures are, it appears, designedly, and by regular system, so arranged, as to conceal from the officers of the Government transactions in which the public interests are deeply involved. And this fact alone furnishes evidence too strong to be resisted, that the concealment of certain important operations of the corporation from the officers of the Government is one of the objects which is intended to be accomplished by means of this committee. The plain words of the charter are violated, in order to deprive the people of the United States of one of the principal securities which the law had provided to guard their interests, and to render more safe the public money intrusted to the care of the bank. Would any individual of ordinary discretion continue his money in the hands of an agent who violated his instructions for the purpose of hiding from him the manner in which he was conducting the business confided to his charge? Would he continue his property in his hands, when he had not only ascertained that concealment had been practised towards him, but when the agent avowed his determination to continue in the same course, and to withhold from him, as far as he could, all knowledge of the manner in which he was employing his funds? If an individual would not be expected to continue his confidence under such circumstances, upon what principle could a different line of conduct be required from the officers of the United States, charged with the care of the public interests? The public money is surely entitled to the same care and protection as that of an individual; and if the latter would be bound, in justice to himself, to withdraw his money from the hands of an agent thus regardless of his duty, the same principle requires that the money of the United States should, under the like circumstances, be withdrawn from the hands of their fiscal agent. And as the power of withdrawal was confided to the Secretary of the Treasury, it was his duty to remove it on this ground alone, if no other cause of complaint had existed against the bank. The conduct of the bank in relation to the three per cent. stock of the United States is a memorable instance of the power exercised in secret by the exchange committee, and the abuses to which it is incident. The circumstances attending that transaction have been so fully laid before Congress and the public, that it is useless to repeat them here. It was a case in which this committee not only managed in secret a moneyed transaction of vast amount, intimately connected with the interests of the people of this country, but one where the measures of the Government were thwarted by the bank, and the nation compelled to continue for a time liable for a debt which it was ready and desired to extinguish. Nor is this the only measure of the kind which has come officially to my knowledge. I have the honor to present herewith a report, made by three of the public directors to the President of the United States, on the 22d of April, 1833, (marked A,) in which, in compliance with a request that they would communicate to him such information as was within their personal knowledge, relative to the unusual proceedings of the board of directors, they disclose the exceptionable manner in which the power conferred by law on the board has been surrendered to the exchange committee; that this has been done evidently with the design of preventing a proper and contemplated examination into the accounts of persons whose paper was offered for discount; that a minority of the board, apparently sufficient to have prevented the loan if the security was bad, were deprived of their votes upon the question; and that the long-established by-laws of the institution were set aside for the purpose of carrying those designs into effect with less difficulty or embarrassment.

If proceedings like these are sanctioned by the constituted authorities of the United States, the appointment of directors on their part is an idle ceremony, and affords no safeguard to the public treasure in the custody of the bank. And even legislative enactments in relation to this corporation are of but little value, if it may at its pleasure disregard one of the fundamental articles of its constitution, and transfer to a secret committee the business which by law ought to be transacted by the board. It is scarcely necessary, in presenting this document to the consideration of Congress, to notice an objection which has been sometimes put forward against the publication of any proceedings which relate to the accounts of private individuals. The circumstances detailed are the regular and official transactions of the board of directors, nor do they involve the private debtor and creditor account of persons dealing with the bank, which is alone included, in the distinction taken by the charter in regard to private accounts. If the argument thus brought forward were a sound one, there could be no such thing as an examination of any value into the conduct of the bank, because the business of the bank being with individuals, its misconduct could never be shown without bringing before the public the individual transaction in which the conduct of the bank was impeached. And if it could make good the position that such proceedings never are to be exposed to the public, because individuals are concerned in them, it would effectually shut out all useful examination, and be enabled to apply its money to the most improper purposes, without detection or exposure. When its conduct is impeached, on the ground that it has used its great money power to obtain political influence, the investigation of the charge is, in its very nature, an inquiry into its transactions with individuals. And although the accounts brought forward on such occasions may be the accounts of individuals, yet they are also the accounts of the bank, and show its conduct. And being the fiscal agent of the Government, with such immense power to be exercised for good or for evil, the public safety requires that all of its proceedings should be open to the strictest and most rigorous scrutiny. Its charter may be forfeited by its misconduct, and would be justly forfeited, if it sought to obtain a political influence in the affairs of the nation. And yet such attempt on the part of the bank can never be proved, except by the examination and disclosure of its dealings with individuals.

2d. It is not merely by its concealments that the bank has proved itself regardless of the duties of its agency.

Its own interests will be found to be its ruling principle, and the just claims of the public to be treated with but little regard, when they have come into collision with the interests of the corporation. This was but too plainly the case in the affair of the three per cents. above mentioned. A recent instance proves that its rule of action is not changed in this respect. And the failure of the French Government to pay the bill drawn for the first instalment due by the treaty, has been made the occasion of endeavoring to obtain from the public the sum of $158,842 77, to which no principle of justice appears to entitle it. The money for which the bill was sold remained in the bank. The expenses it incurred were of small amount, and these the Government are willing to pay. But the corporation, not content with the profits it was deriving from the millions of public money then in its vaults, and which it was daily using in its discounts, endeavors to convert the public disappointment into a gainful transaction for itself; and demands the large sum above mentioned, without pretending that it sustained any loss or inconvenience, commensurate with the amount it seeks to obtain from the Government. The fiscal agent of the public attempts to avail itself of the unexpected disappointment of the principal, for the purpose of enhancing its own profits at the expense of the community.

3d. There is sufficient evidence to prove that the bank has used its means with a view to obtain political power, and thereby secure the renewal of its charter.

The documents which have been heretofore laid before Congress, and are now on its files, will show that, on the 31st of December, 1830, the aggregate debt due to the bank was $42,402,304 24, and that, on the 31st of December, 1831, it was $63,026,452 93, being an extension of its loans, in a single year, of twenty millions of dollars, and an increase of nearly fifty per cent. on its previous accommodations.

And, as if to leave no room to doubt as to the motive of this extraordinary conduct, it continued to add rapidly to its loans, and on the 1st of May, 1832, while its petition for the renewal of its charter was yet pending before Congress, they amounted to $70,428,070 72, being an increase of $7,401,617 79 in the four preceding months, and making altogether an addition of $28,025,766 48 in the short space of sixteen months, and being an extension of more than 66 per cent. on its previous loans. Such an increase at such a period of its charter is without example in the history of banking institutions. On the 31st of December, 1830, when its loans amounted, as above stated, to only $42,402,304 24, the corporation had been in existence fourteen years. The sudden and great increase was made when the charter was drawing to a close, and it had but little more than four years to run. It cannot be supposed that these immense loans were made from a confident expectation that the charter would be renewed; on the contrary, it is now an historical fact, that the bank itself deemed the chances of renewal so doubtful, that, in the session of Congress beginning in December, 1831, it petitioned for a recharter, and the reason generally assigned for pressing for a decision at that time was the great extent of its business, and the necessity of preparing to bring it to a close if the charter was not to be renewed. Thus, with but little more than four years to run, with doubtful chances of renewal, and aware of the necessity of beginning to arrange its vast transactions, it increases its loans in sixteen months more than twenty-eight millions of dollars. Was this imprudence only? It cannot be believed that those who manage its concerns could have committed such an oversight. Can any proper reason be assigned for this departure from the course which the interests of a moneyed corporation, as well as those of the country, obviously require? I am not aware that any sufficient justification has been offered. And this extraordinary increase of its loans, made in so short a space of time, at such a period of its charter, and upon the eve of a severely-contested election of President, in which the bank took an open and direct interest, demonstrates that it was using its money for the purpose of obtaining a hold upon the people of this country, in order to operate upon their fears, and to induce them, by the apprehension of ruin, to vote against the candidate whom it desired to defeat: in other words, this great moneyed corporation determined to enter the political arena, and to influence the measures of the Government, by causing its weight to be felt in the election of its officers.

But if the circumstances above stated were not of themselves sufficient to prove that the bank had sought by its money to obtain political power, and to exercise, by that means, a controlling influence on the measures of the Government, recent developments have furnished such proof as to leave no room for doubt. I have the honor to transmit herewith an official statement, (marked B,) signed by four of the public directors of the bank, showing at the same time the unlawful manner in which its business is conducted, and the unwarrantable purposes to which its money has been, and still is applied. It will be seen by the proceedings therein stated that the whole capital of the bank is, in effect, placed at the disposition of the president of that institution. He is authorized to expend what he pleases in causing "to be prepared and circulated such documents and papers as may communicate to the people information in regard to the nature and operations of the bank." And he may, therefore, under the very indefinite terms of the resolutions, employ as many persons as he pleases, at such salaries as he thinks proper, either to prepare daily paragraphs for newspapers in favor of the bank, or to write pamphlets and essays to influence the public judgment. And he may even provide for the publications by salaries to printers, or by purchasing presses and types, and placing them in the hands of agents employed and paid by the bank. There is no limitation short of the capital of the bank, as to the sum of money he may thus expend in different parts of the United States. From the description of articles which appear to have been paid for under this resolution, it seems that the President of the institution has supposed that publications containing attacks on officers of Government who are supposed to stand in the way of the renewal of the charter, is one of the modes of "communicating to the people information in regard to the nature and operations of the bank." This construction was, it appears, approved by the board, as they continued the authority in his hands unchanged, after the manner in which a portion of the money had been applied was laid before them. And we are left to conclude that this institution is now openly in the field as a political partisan, and that one of its means of warfare is the destruction of the political standing of those who are opposed to the renewal of the charter. The sum actually charged to the expenses under this resolution is sufficiently startling. How much more may have been already squandered, we are yet to learn. And the work of preparing and circulating such publications is still, it is presumed, going on, under the last resolution of the board. It is, moreover, impossible to ascertain the specific purposes to which the money may in fact have been applied, since vouchers are not required to show the particular services for which it was given. With these positive proofs of the efforts of the bank to obtain power, and to influence the measures of the Government, I have not hesitated as to the path of duty. If, when this evidence was before me, I had failed to withdraw the deposites of public money from the bank, it would have been lending the countenance and support of this Department to measures which are but too well calculated to destroy the purity of our institutions, and endanger thereby the liberties of the people. It cannot be supposed that these expenditures are justifiable on the

ground that the bank has a right to defend itself, and that the money in question was therefore properly expended. Some of the items accounted for sufficiently show in what manner it was endeavoring to defend its interests. It had entered the field of political warfare, and, as a political partisan, was endeavoring to defeat the elections of those who were opposed to its views. It was striving, by means of its money, to control the course of the Government, by driving from power those who were obnoxious to its resentment. Can it be permitted to a great moneyed corporation to enter on such a controversy, and then justify its conduct on the ground that it is defending its own interests? The right of such an institution to interfere in the political concerns of the country, for any cause whatever, can never be recognised; and a defence like this on the part of the bank could not be tolerated even if the individual stockholders alone were thus using their own money to promote their own interests. But it is not only the money of individuals which is thus applied. The one-fifth of the capital of the bank, amounting to seven millions of dollars, belongs to the United States, and the one-fifth of the money which has been expended, and is yet to be expended under this resolution, is the property of the public, and does not belong to private individuals. Yet the board of directors assert the right, not only to authorize the expenditure of the money of the individual stockholders, in order to promote their individual interests, but have also, by the resolution in question, taken upon themselves to give the like authority over money which belongs to the United States. Is an institution which deals thus with the money of the people, a proper depository for the public funds? When such a right is openly claimed, and acted upon, by the board of directors, can the money of the United States be deemed safe in its hands? The same principle that would sanction the application of one portion of the public money to such purposes, would justify the like use of all that may come into its possession. The board of directors have no lawful authority to employ the money of the United States for such objects. So far as the nation is concerned in the character of the bank, the people, through their own representatives in Congress, can take care of their own rights, and vindicate the character of the bank, if they think it unjustly assailed. And they do not need the aid of persons employed and paid by the bank, to learn whether its charter be constitutional or not, nor whether the public interest requires it to be renewed. Nor have they authorized the president and directors of that institution to expend the public money to enlighten them on this subject.

The resolution in question is, moreover, in direct violation of the act of Congress by which this corporation was established. And it is difficult to imagine how the unlimited and irresponsible power over the money of the bank, which the directors have given to the president, can be reconciled to the clause in its charter which requires seven directors to form a board for the transaction of business. If the expenditure of money for the purposes contemplated by the resolution be a legitimate part of the business of the corporation, the board could not lawfully transfer it to one of its officers, unless they can, by resolution, surrender into the hands of their president the entire power of the corporation, and commit to the care of a single individual the corporate power which the law has declared should be exercised by the board of directors.

Chief Justice Marshall, in the case of the Bank of the United States *vs.* Dandridge, when speaking of the bonds required to be given by the cashiers of the bank, says: "It requires very little knowledge of the interior of banks, to know that the interests of the stockholders are committed to a very great extent to these and other officers. It was, and ought to have been the intention of Congress to secure the Government, which took a deep interest in this institution, and to secure individuals, who embarked their fortunes in it on the faith of the Government, as far as possible from the malpractices of its officers." But the directors of the bank seemed to have acted on principles directly opposite to those stated by the Chief Justice, and, instead of endeavoring to secure "as far as possible" the public and individuals from the malpractices of its officers, they place the funds of the bank under the control of a single officer, from whom neither security nor specific vouchers have been required. It is true that, in the opinion which the Chief Justice gave in the case from which the above passage is quoted, he differed from the rest of the court; but the difference was on other principles, and not on the one above stated.

In forming my judgment on this as part of the case, I have not regarded the short time the charter has yet to run; but my conduct has been governed by considerations which arise altogether out of the course pursued by the bank, and which would have equally influenced the decision of this Department in relation to the deposites, if the bank were now in the first years of its existence; and upon this view of the subject the following propositions appear to be fully maintained:

1st. That the bank, being the fiscal agent of the Government in the duties which the law requires it to perform, is liable to all the responsibilities which attach to the character of agent in ordinary cases of principal and agent among individuals; and it is therefore the duty of the officer of the Government to whom the power has been intrusted, to withdraw from its possession the public funds whenever its conduct towards its principal has been such as would induce a prudent man in private life to dismiss his agent from his employment.

2d. That, by means of its exchange committee, it has so arranged its business as to deprive the public servants of those opportunities of observing its conduct which the law had provided for the safety of the public money confided to its care; and that there is sufficient evidence to show that the arrangement on the part of the bank was deliberately planned, and is still persisted in, for the purpose of concealment.

3d. That it has also, in the case of the three per cent. stock, and of the bill of exchange on France, endeavored unjustly to advance its own interests at the expense of the interests and just rights of the people of the United States.

If these propositions be established, it is very clear that a man of ordinary prudence in private life would withdraw his funds from an agent who had thus behaved himself in relation to his principal; and it follows that it was the duty of the Secretary of the Treasury to withdraw the funds of the United States from the bank.

4th. That there is sufficient evidence to show that the bank has been, and still is, seeking to obtain political power, and has used its money for the purpose of influencing the election of the public servants; and it was incumbent upon the Secretary of the Treasury, on that account, to withdraw from its possession the money of the United States, which it was thus using for improper purposes. Upon the whole, I have felt myself bound by the strongest obligation to remove the deposites. The obligation was imposed upon me by the near approach of the time when this corporation will cease to exist, as well as by the course of conduct which it has seen fit to pursue.

The propriety of removing the deposites being thus evident, and it being consequently my duty to select the places to which they were to be removed, it became necessary that arrangements should be immediately made with the new depositories of the public money, which would not only render it safe, but would at the same time secure to the Government, and to the community at large, the conveniences and facilities that were intended to be

obtained by incorporating the Bank of the United States. Measures were accordingly taken for that purpose, and copies of the contracts which have been made with the selected banks, and of the letters of instructions to them from this Department, are herewith submitted. The contracts with the banks in the interior are not precisely the same with those in the Atlantic cities. The difference between them arises from the nature of the business transacted by the banks in these different places. The State banks selected are all institutions of high character and undoubted strength, and are under the management and control of persons of unquestioned probity and intelligence. And, in order to ensure the safety of the public money, each of them is required, and has agreed, to give security whenever the amount of the deposite shall exceed the half of the amount of the capital actually paid in; and this Department has reserved to itself the right to demand security whenever it may think it advisable, although the amount on deposite may not be equal to the sum above stated. The banks selected have also severally engaged to transmit money to any point at which it may be required by the directions of this Department for the public service, and to perform all the services to the Government which were heretofore rendered by the Bank of the United States. And, by agreements among themselves to honor each other's notes and drafts, they are providing a general currency at least as sound as that of the Bank of the United States, and will afford facilities to commerce and in the business of domestic exchange, quite equal to any which the community heretofore enjoyed. There has not been yet sufficient time to perfect these arrangements, but enough has already been done to show that, even on the score of expediency, a Bank of the United States is not necessary, either for the fiscal operations of the Government, or the public convenience; and that every object which the charter to the present bank was designed to attain, may be as effectually accomplished by the State banks. And, if this can be done, nothing that is useful will be lost or endangered by the change, while much that is desirable will be gained by it. For no one of these corporations will possess that absolute and almost unlimited dominion over the property of the citizens of the United States which the present bank holds, and which enables it at any moment, at its own pleasure, to bring distress upon any portion of the community whenever it may deem it useful to its interest to make its power felt. The influence of each of the State banks is necessarily limited to its own immediate neighborhood, and they will be kept in check by the other local banks. They will not, therefore, be tempted by the consciousness of power to aspire to political influence, nor likely to interfere in the elections of the public servants. They will, moreover, be managed by persons who reside in the midst of the people who are to be immediately affected by their measures; and they cannot be insensible or indifferent to the opinions and peculiar interests of those by whom they are daily surrounded, and with whom they are constantly associated. These circumstances always furnish strong safeguards against an oppressive exercise of power, and forcibly recommend the employment of State banks in preference to a Bank of the United States, with its numerous and distant branches. A corporation of the latter description is continually acting under the conviction of its immense power over the money concerns of the whole country, and is dealing also with the fortunes and comforts of men who are distant from them, and to whom they are personally strangers. The directors of the bank are not compelled to hear, daily, the complaints, and witness the sufferings of those who may be ruined by their proceedings. From the nature of man, such an institution cannot always be expected to sympathize with the wants and feelings of those who are affected by its policy. And we ought not, perhaps, to be surprised if a corporation like the Bank of the United States, from the feeling of rivalry, or from cold calculations of interest or ambition, should deliberately plan and execute a course of measures highly injurious and oppressive in places where the directors who control its conduct have no local sympathies to restrain them.

It is a fixed principle of our political institutions to guard against the unnecessary accumulation of power over persons and property in any hands. And no hands are less worthy to be trusted with it than those of a moneyed corporation. In the selection, therefore, of the State banks as the fiscal agents of the Government, no disadvantages appear to have been incurred on the score of safety or convenience, or the general interests of the country, while much that is valuable will be gained by the change. I am however well aware of the vast power of the Bank of the United States, and of its ability to bring distress and suffering on the country. This is one of the evils of chartering a bank with such an amount of capital, with the right of shooting its branches into every part of the Union, so as to extend its influence to every neighborhood. The immense loan of more than twenty-eight millions of dollars suddenly poured out, chiefly in the Western States in 1831, and the first four months in 1832, sufficiently attests that the bank is sensible of the power which its money gives it, and has placed itself in an attitude to make the people of the United States feel the weight of its resentment, if they presume to disappoint the wishes of the corporation. By a severe curtailment it has already made it proper to withdraw a portion of the money it held on deposite, and transfer it to the custody of the new fiscal agents, in order to shield the community from the injustice of the Bank of the United States. But I have not supposed that the course of the Government ought to be regulated by the fear of the power of the bank. If such a motive could be allowed to influence the legislation of Congress, or the action of the Executive Departments of the Government, there is an end to the sovereignty of the people; and the liberties of the country are at once surrendered at the feet of a moneyed corporation. They may now demand the possession of the public money, or the renewal of the charter; and if these objects are yielded to them from apprehensions of their power, or from the suffering which rapid curtailments on their part are inflicting on the community, what may they not next require? Will submission render such a corporation more forbearing in its course? What law may it not hereafter demand, that it will not, if it pleases, be able to enforce by the same means?

These considerations need not, however, be pressed further in this report. They are too obvious and striking to need enforcement by argument. And I rely with confidence on the representatives of this enlightened nation to sustain a measure which the best interests of the country called for, and which had become absolutely necessary to preserve untainted its free institutions, and to secure the liberties and happiness of the people.

I have the honor to be, sir, very respectfully, &c.

R. B. TANEY,
Secretary of the Treasury.

Documents transmitted with the report of the Secretary of the Treasury on the Removal of the Public Deposites from the Bank of the United States.

A.—Report of the Government directors of the Bank of the United States, dated 22d April, 1833.

B.—Report of the Government directors of the Bank of the United States, dated 19th August, 1833.

C.—Instructions to the Collector at Philadelphia.

Note.—Similar instructions sent to the Collectors at Boston, New York, and Baltimore.

D.—Letter to the President of the Girard Bank in the city of Philadelphia, selecting that bank as one of the depositories of the public money.

Note.—Similar letters sent to the President of the Commonwealth Bank, and the Merchants' Bank at Boston, the Manhattan Company, the Mechanics' Bank, and the Bank of America, at the city of New York, and the Union Bank of Maryland, at Baltimore.

E.—Letter to the President of the Bank of the United States, authorizing him to deliver to the Collector at Philadelphia all duty bonds to the United States, payable on and after 1st October, 1833.

Note.—Similar letters were addressed to the Presidents of the offices of the Bank of the United States at Boston, New York, and Baltimore.

F.—Letter from the Collector at Philadelphia, transmitting the contract executed by the Girard bank.

G.—Copy of the contract executed by the Girard Bank in the city of Philadelphia.

Note.—Similar contracts have been executed by the Commonwealth Bank and the Merchants' Bank of Boston; the Manhattan Company, the Mechanics' Bank, and the Bank of America, at New York; the Union Bank of Maryland, at Baltimore; the Bank of the Metropolis, of the city of Washington; the Bank of Virginia, at Richmond, for itself and the Branch at Norfolk; and the Planters' Bank of the State of Georgia, at Savannah; and the Union Bank of Louisiana. That executed by the Commercial Bank at New Orleans, has not been received, although the Department has been advised by the President of the bank of the execution of the contract, which is similar to the one above-mentioned.

H.—Letter from the President of the Girard Bank, announcing the execution of the contract.

I.—Letter to the President of the Maine Bank, at Portland, selecting that institution as one of the depositories of the public money.

Note.—Similar letters sent to the Presidents of the Commercial Bank at Portsmouth, New Hampshire; the Branch of the Bank of the State of Alabama, at Mobile; the Planters' Bank of the State of Mississippi, at Natchez; the Union Bank of Tennessee, at Nashville; the Franklin Bank of Cincinnati, in Ohio; the Bank of Virginia, at Richmond; the Branch of the Bank of Virginia, at Norfolk; the Bank of the Metropolis, at the city of Washington; the Bank of Burlington, in Vermont; the Arcade Bank, at Providence, R. I.; the Farmers and Mechanics' Bank, at Hartford, Connecticut; the Union Bank of Louisiana, and the Commercial Bank, at New Orleans.

K.—Letter from the President of the Maine Bank, at Portland, transmitting contract executed by that Bank.

L.—Contract executed by the Maine Bank, at Portland, Maine.

Note.—Similar contracts have been executed by the Commercial Bank, at Portsmouth, New Hampshire; the Farmers and Mechanics' Bank of Hartford, Connecticut; the Arcade Bank, at Providence, R. I.; and the Bank of Burlington, Vermont.

M.—Letter from the President of the Franklin Bank of Cincinnati, announcing the transmission of the contract executed by that bank.

N.—Copy of the contract executed by the Franklin Bank of Cincinnati.

Note.—Similar contracts have been executed by the Union Bank of Tennessee, at Nashville; the Planters' Bank of the State of Mississippi, at Natchez; the Branch of the Bank of the State of Alabama, at Mobile.

O.—Report of the Secretary of the Treasury to the President of the United States, relative to disbursing officers of the Government.

P.—Communication to the Departments of State, War, and Navy.

A.

Philadelphia, *April* 22, 1833.

To the President *of the United States:*

Sir: We have had the honor to receive your letter of the 14th, calling our attention to the rumors which have come to you, in relation to the proceedings of the Bank of the United States, and requesting such information as is within the personal knowledge of the Government directors, that you may judge of the expediency of a more formal and thorough investigation, through the Secretary of the Treasury.

In the letter we had the honor to address you on the 8th instant, we took the liberty, respectfully, to state the limited extent of our present information, which is only derived from our attention to the current business of the institution, acquired, at least, by two of us, in the short period we have been in the direction, and amid the pressure of other engagements. Such as it is, we communicate it in compliance with your request.

We could not fail to be struck with the fact that the standing committees of the board, to whom, of course, the consideration and preparation of a great deal of the most important business is assigned, were so constituted at the commencement of the year as to embrace none of the directors appointed by the Government, although three took their seats at the first meeting, and two of them were residents of Philadelphia. About the commencement of the present month, however, on a new organization of those committees, one of us was appointed on the committee on the state of the bank, and another on that on the offices.

So far as we are aware, the business of the committees consists of matters referred to them by the board, on which they report before any final action, except in a single instance, that of the committee on exchange. This committee, whose original power was confined to the exchange business, and whose appointment was formerly monthly, in rotation, is now appointed by the president, and has gradually come to exercise the authority of another committee, also heretofore selected in rotation, to attend daily at the bank, and afford their aid and advice in all cases relative to the interest and business of the institution. Of late years the appointment of this latter committee has, we understand, ceased. In the exercise of these functions, the committee on exchange has not merely discounted inland bills of exchange, but also promissory notes, on the days intervening between the meetings of the board, and in some instances even then, but after its adjournment. Its proceedings of this nature are entered on the books of the bank, and laid on the directors' table, though not read to them, at every meeting. Further than this, we cannot say that we have any personal knowledge of the final action of this committee without the express authority of the board.

Conceiving it proper that the ordinary business of the board should not be thus transacted by a smaller number of directors than that required by the charter, and that the business of discounts might be conveniently done at the board, and being of opinion that a committee exercising such extensive powers ought to be selected in rotation, so as to include the whole board, which was the case until within a few years, and is still prescribed by the by-laws, we offered these resolutions: "That the duties of the committee on exchange should not extend to the business of discounts;" and "That the committee on exchange shall, after the expiration of the present month, consist of three directors residing in Philadelphia, to be selected as prescribed by the existing by-laws, monthly, from the board, in rotation, and that the president and cashier shall be united with them." We also called the particular attention of the board to a report on their own minutes for the 20th February, 1830, made by the committee on the offices, to whom had been referred a letter

from the president of the office at Charleston, stating that the facilities for making discounts daily, by a committee, as practised in the State banks in that city, gave to those institutions advantages over the office, and suggesting a similar course for the office itself. The report of this committee, made after much deliberation, was as follows: That the subject of discounts by committees has frequently engaged the attention of the board, who have always felt and expressed a great repugnance to such a practice, to which, in fact, much of the losses of the bank may be ascribed. The committee on the offices still entertain that opinion, and they think that the better course to be pursued in regard to the present suggestion is that adopted on the 30th October, 1823, on a similar application from the office at Boston; they accordingly recommend the adoption of the following resolution: "That the president be requested to communicate to the president of the office at Charleston the unwillingness of this board to adopt the plan of making discounts of notes by a committee, that being the proper business of the board organized as such; but, in order to give every proper facility to business, the board perceive no objection to more frequent, and even daily meetings of the board, which can take place, for a short time, at a particular hour of every day." In addition to this, we also adverted to the fact that, as late as the year 1828, the committee attending at the bank was selected monthly, in rotation, as appears by the minutes. This subject is still under the consideration of the board; any decision thereon having been postponed until a proposed alteration in the by-laws, on the same subject, shall come up for consideration. By this alteration it is provided that "the committee on exchange shall consist of three members, to be appointed by the president every three months, who shall have special charge of all matters relating to the operations of the bank and its offices in foreign and domestic exchange and bullion, and who shall act as a daily committee for the purchase of domestic exchange at the bank." This, in fact, is to constitute, by express regulation, the committee on exchange, in the manner in which it now practically exists. What may be the decision of the board on this plan, we cannot, of course, say; but from the general sentiments expressed by most of the other directors, we presume it will be adopted. They are of opinion that the business thus intrusted to the committee on exchange may be properly confided to them without contravening the letter or spirit of the charter; that it is expedient, and even necessary to the successful business of the institution, to have a committee with authority thus to act in the intervals when the board is not in session; and that such a committee may be appointed in the manner proposed, more advantageously and with no less propriety than if selected in rotation, by which all the resident members of the board would, from time to time, participate in the action on matters not only important in themselves, but peculiarly such as the stockholders must have looked to, in deciding on the fitness of all the directors. Our own experience has not led us to adopt these views of our colleagues; but having stated so fully the facts in regard to them which have come within our knowledge, it would be improper in us further to urge our opinions on the subject in this communication.

We have been induced, however, to object more strenuously to this mode of conducting business, because it transfers from the board to a few members an extent of power and authority in the disposal of the funds of the stockholders, which ought not to be exercised except by the full representation of their interest, which the charter requires, and which involves the institution in transactions from which it is difficult to withdraw without loss. Having observed on a late occasion, from the books laid on the table at the meetings of the board, that a note of Messrs. Gales and Seaton for $5,000, which had been due and unpaid for some days, was unprotested, and that their account then was, and, since the month of November preceding, had been repeatedly overdrawn to a considerable amount; and learning, on inquiry, that their debt to the bank had risen within a few years from less than eleven thousand to upwards of eighty thousand dollars; that the principal security therefor was a pledge of the funds to be received from Congress for an edition of the State Papers, which funds were partially and previously appropriated to the payment of advances from other sources, and also to the current expenses of publishing the work; and that, in the present instance, no notice of the non-payment had been given to the trustees holding these funds, who were the accepters of a draught which had been taken as collateral security, although the acceptance was conditional to be paid on a contingency, and out of a particular fund; we were desirous on all these grounds that the subject should be fully and specially investigated; we also desired it, as we stated at the time, for the purpose of ascertaining and preserving on record the reasons on which such a deviation from the rules of the bank had been made. Our wishes were at first acceded to, and, on the motion of another director, it was resolved, without a dissenting voice, that the account in question should be referred to a special committee of seven, including therein the three resident Government directors.

At the meeting of the board, three days after, the subject still being before this special committee, and unacted on, we were surprised to observe by the books laid on the table that the note for $5,000 had been renewed by the committee on exchange on the day the investigation was directed. On inquiry, we were informed that the agreement to renew had been made on the preceding day, but the note not having been actually produced until the day in question, the entry was then made on the books. We observed, also, that the committee on exchange had discounted a note of the same persons, for a further sum of $2,500, on the security of their order on the Clerk of the House of Representatives, "for the amount which would be due to them for the 21 part, volume 6th, of the Register of Debates, say for 500 copies, twenty-five hundred dollars, when authorized by the House, as heretofore." On this order the Clerk declined putting any acceptance, as the above work had not been subscribed for, though, as he said, "he did not doubt of its being ordered;" but he stated, that "if the order was lodged with Mr. Johnson, his paying clerk, he would pay the money when due, to the proper person." They had also discounted a draft of the same persons on H. T. Weightman, for $814 81. The two together made $3,314 81, the amount of the overdraft at the time. The discounts thus made were in opposition to the by-laws of the bank, which prescribes that no person while he remains an overdrawer, shall have any note or bill discounted at the bank. It was stated by the members of the committee on exchange, that these measures had been adopted as the most likely to secure their debt; that, in regard to the renewal of the note for $5,000, they had reason to believe that it had remained over from accidental neglect, in not sending on in time one to replace it with, which was also the cause of its non-protest; and that, in their opinion, a protest or notice was unnecessary to secure the liability of the accepters of the draft; that, in regard to the additional discounts of $3,314 81, on the order and statement above mentioned, they believed they had secured, in the most advantageous manner they could, the amount of the overdraft. The opinion was further expressed by some of the committee on exchange, and officers of the bank, that the whole of this large debt was secure; that it had been contracted to execute the large work directed by Congress; and that when the payments thereof should be made, as they would shortly be, the debt would be greatly reduced, or entirely liquidated.

After these circumstances, we were still more surprised at the proceedings of the board. The resolution which had been passed unanimously at the preceding meeting, to refer the acount to a special committee, was called up; it was reconsidered by the vote of all present, except the mover of the resolution and the Government directors, and it was subsequently rescinded altogether. We renewed our opposition to this course on the grounds we have mentioned, and also on account of the large amount of the debt, the unusual character and uncertain value of the principal security, and the doubts that might be entertained of the ability of the parties, from several of their notes, deposited by individuals for collection in the bank, having remained protested. From the same reasons, when their notes came before the board a few days since for renewal, to the amount of $13,000, we resisted a further extension of the loan. We believe that its amount and duration were such as to render it proper to commence its reduction; and having understood that the work in question was so far completed as to entitle the publishers to a large portion of the sum payable by Congress, we thought it right that they should make some payment. They were, however, renewed by the votes of all the members present except those of the Government directors.

We have since endeavored, by our individual exertions, to form some opinion of the actual value of this security, and whether, as is alleged, it is sufficient; but there do not appear to be any documents from the Clerk of the House of Representatives, or from the trustees to whom the money to be paid was assigned, which give a definite statement of the amount of the State Paper fund, or of the sum which the bank can calculate upon as a certain guarantee. The total amount loaned on that security is $55,000, of which $25,000 is on the *collateral* acceptances of the trustees, deposited at the bank here, to which we have already referred. Of one of these drafts and acceptances, thus collaterally given, we annex a copy, that you may see the nature of the instrument, and the terms of the acceptances; we also annex a copy of the statement of the Clerk of the House of Representatives, relative to the draft for $2,500, lately discounted, and of a statement of the same person, relative to the payments to be made on account of the fund. From these and our previous remarks, you will be able to form an opinion on the whole matter. As to the actual value of the security, therefore, we express no opinion; indeed, one could not be formed with the certainty we should desire, in doing so, without an investigation much more thorough and formal than we have been able to make.

These, sir, are the circumstances which have come to our personal knowledge in the usual and regular exercise of our duty as directors of the bank. We have stated them to you with, perhaps, more minuteness than may seem necessary, but we have done so that you might be able to judge at once of the propriety of our course in the fulfilment of our official trust, and also of the grounds on which our colleagues have acted in pursuing one essentially different from it. We have refrained from stating any thing that we have not made the subject of much reflection, and all the examination in our power; any thing that our present personal knowledge does not warrant us in laying before you as the basis of such measures as you may deem it expedient to adopt; any thing in regard to which we have not sought, and obtained, as far as we could, every explanation that was to be made.

Without considering any portion of our remarks as falling within the limits of those private accounts, which, as you state, the charter has so carefully guarded, since the whole relate to the action of the board upon matters fully open, and discussed before them, and extend in no instance to the private debtor and creditor accounts of individuals, yet we may be excused for expressing much gratification at your assurance that the information requested is for your own satisfaction, and that you do not wish it extended beyond our personal knowledge. We may be permitted also to add that the wishes and opinions, which we took the liberty of expressing in our former letter, have been since more strongly confirmed, and that we should not only feel more satisfaction ourselves, but be enabled to convey to you more full and correct information, were we to proceed in an investigation, whose object was avowed, and if we were strengthened by that official sanction which we suggested.

In conclusion, we can only say that, in whatever light our course may be regarded here, we shall act with a full sense of what we owe, both to the institution, and to the Government we represent, with firmness in opposing what we believe to be inexpedient or wrong, no matter to what motives our actions may be attributed, with due consideration of the reasons urged by others for their course, should it vary from our own; and with anxiety in seeking for and supporting every plan which we believe will increase the usefulness of the bank to the whole community, and promote the objects for which it was formed.

We remain, with great respect,

H. D. GILPIN,
JOHN T. SULLIVAN,
PETER WAGER.

Draft and acceptance of trustees.

WASHINGTON, *November* 17, 1832.

Four months after date, please pay to Thomas Donoho, or order, three thousand dollars, for value received, to be paid out of any moneys which may come into your hands as the proceeds of the compilation of State Papers which are now executing under the act of Congress of March 2d, 1831, and charge your obedient servants,

$3,000. GALES & SEATON.

H. T. WEIGHTMAN & LEONIDAS COYLE, } *Trustees.*

WASHINGTON, *November* 17, 1832.

Accepted, to be paid out of any moneys that may remain in our hands after the payments stipulated to be made by the deed of assignment, and after the payment of all prior acceptances.

H. T. WEIGHTMAN, LEONIDAS COYLE, } *Trustees.*

	$3,000
One other of the same import, dated August 13, 1832	5,000
One other, same import, dated October 13, 1832 -	6,000
One other, same import, dated May 22, 1832 -	6,000
One other, same import, dated March 13, 1832 -	5,000
	$25,000

Draft and statement of Clerk of House of Representatives.

WASHINGTON, *March* 22, 1833.

SIR: Please pay to our order, hereon endorsed, the amount which will be due to us for the 2d part, volume 6th, of the Register of Debates, say for five hundred copies, twenty-five hundred dollars, when authorized by the House, as heretofore.

$2,500. GALES & SEATON.

M. ST. CLAIR CLARKE, Esq.,
Clerk House of Representatives.

March 22, 1833.

GENTLEMEN: As the above work has not been subscribed for, but I do not doubt of its being ordered, I cannot put my acceptance on it; but if it be lodged with Mr. Johnson, my paying clerk, he will pay the money when due, to the proper person. Yours, &c.

M. ST. CLAIR CLARKE,
Clerk House of Representatives.

MESSRS. GALES & SEATON.

Statement of the Clerk of the House of Representatives.

Capitol, *March* 12, 1833.

Gentlemen: In answer to your request, I have to state that the subscription authorized by Congress to the reprint of the State Papers has been made by me; that as great progress has been made in printing as its nature and Mr. Lowrie's exertions and my own could accomplish.

No appropriation has yet been made, but a bill has been reported making one, which I believe will either pass in that shape, or be appended to the general appropriation bill in the Senate.

Very respectfully, &c.

M. ST. CLAIR CLARKE,
Clerk of House Representatives.

Messrs. Gales & Seaton.

B.

Philadelphia, *August* 19, 1833.

To the President *of the United States:*

Sir: We had the honor to receive your letter of the 3d instant, directing us to examine and report upon the expense account of the Bank of the United States for the two last years. Those of us to whom it was addressed, requested the attendance of our colleague, Mr. McElderry, to assist us in the examination. On his arrival, we proceeded to investigate the various charges, and to look into such of the vouchers on which they were founded, as we had time and opportunity to do. These are so numerous, and embrace so many small items of various kinds, that a full view of them can only be given to you by transmitting copies, made by some person authorized or requested by you, or the Secretary of the Treasury. The time and labor necessary for this mode, would have prevented our resorting to it at present, even had you authorized us to do so, for we have believed it would be more consistent with your wishes that we should at once report the result of our own labors, leaving you to decide, after you shall have been made acquainted with them, whether such a more minute statement of the expense account be requisite. We may add, too, that, finding the particulars of many expenditures were to be ascertained only by an investigation of the numerous bills and receipts, we requested, at the board, that the cashier might furnish such a statement of them as might be susceptible of ready examination; but as this request was not complied with, we were obliged to depend entirely on our own partial inquiries. These facts we mention, merely to guard against any deficiency you may observe in our remarks, and any inaccuracies, should there be such, in the details which we communicate.

As the expense account embraces the various expenditures for salaries, making and issuing notes, transportation of specie, buildings, repairs, and taxes on real estate, stationary, printing, and contingencies of all kinds, it is necessarily so large and intricate that we deemed it expedient at present to confine our investigation to that portion which embraced expenditures calculated to operate on the elections, as they seemed to be the objects of inquiry suggested by you. All expenditures of this kind, introduced into the expense account, and discovered by us, we found to be, so far as regards the institution in this city, embraced under the head of stationary and printing. To it, therefore, we chiefly directed our inquiries; and an examination of that item of the account for the last three years undoubtedly presents circumstances which, in our opinion, fully warrant the belief you have been led to entertain.

The expense account is made up at the end of every six months, and submitted with the vouchers to the dividend committee for examination. Commencing with the last six months of the year 1829, we find that the sum paid for stationary and printing amounted to $3,765 94, which we presume to be the necessary expense of the institution under this item, when no extraordinary disbursements are made. During the year 1830, the expenditures increased to $7,131 27 during the first, and $6,959 20 during the last half year, and entries are made, in both, of large sums, making together about $7,000 paid for printing and distributing Mr. McDuffie's report and Mr. Gallatin's pamphlet. These seem to be the commencement of a system of expenditure which was, the next year, immensely increased, and received the sanction of the board, as appears by the entries on the minutes, and two resolutions passed at the close of this year, and in the succeeding spring.

On the 30th November, 1830, it is stated on the minutes that "the president submitted to the board a copy of an article on banks and currency, just published in the American Quarterly Review of this city, containing a favorable notice of this institution, and suggested the expediency of making the views of the author more extensively known to the public than they can be by means of the subscription list. Whereupon, it was, on motion, "Resolved, That the president be authorized to take such measures, in regard to the circulation of the contents of the said article, either in whole or in part, as he may deem most for the interests of the bank." On the 11th March, 1831, it again appears by the minutes that "the president stated to the board that, in consequence of the general desire expressed by the directors, at one of their meetings of the last year, subsequent to the adjournment of Congress, and a verbal understanding with the board, measures had been taken by him, in the course of that year, for furnishing numerous copies of the reports of General Smith and Mr. McDuffie on the subject of this bank, and for widely disseminating their contents through the United States; and that he has since, by virtue of the authority given him by a resolution of this board on the 30th day of November last, caused a large edition of Mr. Gallatin's essay on banks and currency to be published and circulated, in like manner at the expense of the bank. He suggested, at the same time, the propriety and expediency of extending still more widely a knowledge of the concerns of this institution, by means of the republication of other valuable articles, which had issued from the daily and periodical press. Whereupon, it was, on motion, "Resolved, That the president is hereby authorized to cause to be prepared and circulated such documents and papers as may communicate to the people information in regard to the nature and operations of the bank."

In pursuance, it is presumed, of these resolutions, the item of stationary and printing was increased during the first half year of 1831 to the enormous sum of $29,979 92, exceeding that of the previous half year by 23,000 dollars, and exceeding the semi-annual expenditures of 1829 upwards of 26,000 dollars. The expense account itself, as made up in the book which was submitted to us, contained very little information relative to the particulars of this expenditure, and we are obliged, in order to obtain them, to resort to an inspection of the vouchers. Among other sums was one of 7,801 dollars, stated to be paid on orders of the president under the resolution of 11th March, 1831, and the orders themselves were the only vouchers of the expenditure which we found on file. Some of the orders to the amount of about 1,800 dollars, stated that the expenditure was for distributing General Smith's and Mr. McDuffie's reports, and Mr. Gallatin's pamphlet; but the rest stated generally that it was made under the resolution of 11th March, 1831. There were also numerous bills and receipts for expenditures to individuals, among them, of Gales and Seaton, 1,300 dollars for distributing Mr. Gallatin's pamphlet; of William Fry,

for Garden and Thompson, $1,675 75 for 5,000 copies of General Smith's and Mr. McDuffie's reports, &c.; of Jesper Harding, 440 dollars for 11,000 extra papers; of the American Sentinel, $125 74 for printing, folding, packing, and postage on 3,000 extras; of William Fry, $1,830 27 for upwards of 50,000 copies of the National Gazette, and supplements containing addresses to members of State Legislatures, reviews of Mr. Benton's speech, abstracts of Mr. Gallatin's article from the American Quarterly Review, and editorial article on the project of a Treasury Bank; of James Wilson, $1,447 75 for 25,000 copies of the reports of Mr. McDuffie and General Smith, and for 25,000 copies of the address to members of the State Legislatures, agreeably to order and letters from John Sergeant, Esq.; and of Carey and Lea, 2,850 dollars for 10,000 copies of Gallatin on Banking, and 2,000 copies of Professor Tucker's article.

During the second half year of 1831, the item of stationary and printing was $13,224 87, of which 5,010 were paid on orders of the President, and stated generally to to be under the resolution of 11th March, 1831, and other sums were paid to individuals, as in the previous account, for printing and distributing documents.

During the first half year of 1832, the item of stationery and printing was $12,134 16, of which 2,150 dollars was stated to have been paid on orders of the President, under the resolution of 11th March, 1831. There are also various individual payments, of which we noticed $106 38 to Hunt, Tardiff, and Co. for one thousand copies of the review of Mr. Benton's speech; 200 dollars for one thousand copies of the Saturday Courier; 1,176 dollars to Gales and Seaton, for twenty thousand copies of a pamphlet concerning the bank, and six thousand copies of the minority report relative to the bank; 1,800 dollars to Matthew St. Clair Clarke, for three hundred copies of Clarke and Hall's bank book. During the last half year of 1832, the item of stationary and printing rose to $26,543 72, of which 6,350 dollars are stated to have been paid on orders of the President, under the resolution of 11th March, 1831. Among the specified charges we observe $821 78 to Jesper Harding, for printing a review of the veto; $1,371 04 to E. Olmstead, for 4,000 copies of Mr. Ewing's speech, bank documents, and review of the veto; $4,106 13 to William Fry, for 63,000 copies of Mr. Webster's speech, Mr. Adams's and Mr. McDuffie's reports, and the majority and minority reports; 295 dollars for 14,000 extras of "The Protector" containing bank documents; $2,583 50 to Mr. Riddle, for printing and distributing reports, Mr. Webster's speech, &c.; $150 12 to Mr. Finnall for printing the speeches of Messrs. Clay, Ewing, and Smith, and Mr. Adams's report; $1,512 75 to Mr. Clark, for printing Mr. Webster's speech and articles on the veto, and $2,422 65 to Nathan Hall, for 52,500 copies of Mr. Webster's speech. There is also a charge of $4,040 paid on orders of the president, stating that it is for expenses in measures for protecting the bank against a run on the Western branches.

During the first half year of 1833, the item of stationary and printing was $9,093 59, of which 2,600 dollars are stated to have been paid on orders of the President, under the resolution of 11th March, 1831. There is also a charge of Messrs. Gales and Seaton, of 800 dollars for printing the report of the exchange committee. Having made this examination of the expense account, we were not only struck with the large sum that had been expended under the head of stationary and printing in the two years to which you refer, but also by the evident necessity there was that the accounts should be so stated as to enable the directors and stockholders to ascertain the particular sums of money, the quantity and names of the documents furnished, and the expenses of distribution and postage. With this object, we stated, at the last meeting of the board, the result of our examination of the expense account, and submitted the following resolutions:

Whereas, it appears by the expense account of the bank for the years 1831 and 1832, that upwards of eighty thousand dollars were expended and charged under the head of stationary and printing during that period; that a large proportion of this sum was paid to the proprietors of newspapers and periodical journals, and for the printing, distribution, and postage of immense numbers of pamphlets and newspapers; and that about twenty thousand dollars were expended under the resolutions of 30th November, 1830, and 11th March, 1831, without any account of the manner in which, or the persons to whom, they were disbursed: And whereas it is expedient and proper that the particulars of this expenditure, so large and unusual, which can now be ascertained only by the examination of numerous bills and receipts, should be so stated as to be readily submitted to, and examined by, the board of directors and the stockholders: *Therefore, Resolved,* That the cashier furnish to the board, at as early a day as possible, a full and particular statement of all these expenditures, designating the sums of money paid to each person, the quantity and names of the documents furnished by him, and his charges for the distribution and postage of the same; together with as full a statement as may be of the expenditures under the resolutions of 30th November, 1830, and 11th March, 1831. That he ascertain whether expenditures of the same character have been made at any of the offices, and if so, procure similar statements thereof, with the authority on which they were made. That the said resolutions be rescinded, and no further expenditures made under the same.

These resolutions were postponed on motion of one of the directors, for the purpose of introducing a substitute for them, by the vote of all present except ourselves and one other member of the board. The resolution substituted was as follows: *Resolved,* That the board have confidence in the wisdom and integrity of the president, and in the propriety of the resolutions of 30th November, 1830, and 11th March, 1831, and entertain a full conviction of the necessity of a renewed attention to the object of those resolutions, and that the president be authorized and requested to continue his exertions for the promotion of said objects.

Viewing this as indicating an intention (which was indeed avowed) to continue, and even extend the system of lavish expenditure, and to authorize disbursements the particulars of which could not be clearly ascertained either by the board or their constituents, and regarding it also as evincing a desire to encounter remonstrances against the continuation of such a system, by a reference to the personal character and motives of the president of the institution, (which were not drawn into question or discussion by us,) we offered as an amendment the following resolutions: "*Resolved,* That while the board have entire confidence in the integrity of the president, they respectfully request him to cause the particulars of the expenditures under the resolutions of 30th November, 1830, and 11th March, 1831, to be so stated that the same may be readily submitted to and examined by the board of directors and the stockholders. *Resolved,* That the said resolutions be rescinded, and no further expenditures be made under the same." This amendment met with the same fate as our previous resolutions, being rejected by the same vote, and the resolution offered as a substitute was passed.

These, sir, are the circumstances attending the best examination we have been able to make in regard to the matters referred to us by your letter of the 3d instant. Should they not prove sufficiently minute, or our report sufficiently explicit, we must infer, from the course pursued by the board, when our resolutions were submitted

to them, that a more exact statement can only be obtained by an agent directly authorized by the Executive.

We have the honor to be,

Very respectfully, your obedient servants,

H. D. GILPIN,
JOHN T. SULLIVAN,
PETER WAGER,
HUGH McELDERRY.

C.

TREASURY DEPARTMENT,
September 26, 1833.

SIR: Believing that the public interest requires that the Bank of the United States should cease to be the depository of the money of the United States, I have determined to use the State banks as places of deposite, and have selected for that purpose in the city of Philadelphia the Girard Bank.

You will therefore present the enclosed draught of a contract to that bank, and upon the execution of the contract you will forward it to this Department. You will ask the aid of the District Attorney of the United States, who will see that the contract is executed in due form, under the corporate seal. The contract being executed, you will then deposite all of the public money which may come to your hands after the thirtieth day of this present month of September, in the bank above mentioned, until the further order of this Department. You will also deposite in the said bank for collection all the bonds which may hereafter be taken for the payment of duties. You will also call on the Bank of the United States at Philadelphia, and receive from it all bonds heretofore given to the United States, which are payable on or after the first day of October next, and deposite them for collection in the aforesaid State bank. I send you herewith an order on the Bank of the United States for that purpose.

When the contract shall have been executed by the State bank, you will forward the enclosed letters to the collectors at Bridgetown, Burlington, Great Egg Harbor, Little Egg Harbor, who have heretofore deposited the money received by them in the Bank of the United States.

You will continue to deposite as usual in the Bank of the United States until the 30th of this present month of September, inclusive.

You will keep a copy of the contract executed by the bank, and from time to time advise this Department of any thing you may deem material to the public interest, connected with the change of the deposites.

Your obedient servant,

R. B. TANEY,
Secretary of the Treasury.

To JAMES N. BARKER, Esq.,
Collector, Philadelphia.

D.

TREASURY DEPARTMENT,
September 26, 1833.

SIR: The Girard Bank has been selected by this Department as the depository of the public money collected in Philadelphia and its vicinity, and the collector at Philadelphia will hand to you the form of a contract proposed to be executed, with a copy of his instructions from this Department.

In selecting your institution as one of the fiscal agents of the Government, I not only rely on its solidity and established character, as affording a sufficient guarantee for the safety of the public money intrusted to its keeping, but I confide, also, in its disposition to adopt the most liberal course which circumstances will admit towards other moneyed institutions generally, and particularly to those in the city of Philadelphia.

The deposites of the public money will enable you to afford increased facilities to commerce, and to extend your accommodation to individuals And as the duties which are payable to the Government arise from the business and enterprise of the merchants engaged in foreign trade, it is but reasonable that they should be preferred, in the additional accommodation which the public deposites will enable your institution to give, whenever it can be done without injustice to the claims of other classes of the community.

I am, very respectfully, your obedient servant,

R. B. TANEY,
Secretary of the Treasury.

To the PRESIDENT *of the Girard Bank, Philadelphia.*

E.

TREASURY DEPARTMENT,
September 26, 1833.

SIR: You will deliver to the collector at Philadelphia all bonds to the United States, payable on or after the 1st day of October next, which may be in your possession, on the recept of this order.

I am, very respectfully,
Your obedient servant,

R. B. TANEY,
Secretary of the Treasury.

N. BIDDLE, Esq.,
President Bank U. S. Philadelphia.

F.

COLLECTOR'S OFFICE,
Philadelphia, September 28, 1833.

SIR: I had the honor to receive, last evening, your communication dated the 26th instant, in relation to the deposite of the public money and bonds for collection in this district, together with its several enclosures.

Agreeably to your direction, I this morning presented to the president of the Girard Bank the letter addressed to him, with the draught of the contract, and a copy of the instructions received by me. The board of directors was, in consequence, convened at 12 oclock; but, owing to the absence of some of the members, and the desire to have a full board, it adjourned to meet at half past 5 o'clock this evening. At that hour a full attendance of the board took place, and the terms proposed were unanimously agreed to. I have, therefore, the honor to transmit the contract, executed in due form, after being submitted to the Attorney of the United States.

The late hour at which the instrument was completed, has made it necessary to postpone the execution of the remaining part of your instructions until Monday, when I shall proceed to withdraw the bonds deposited for collection, from the Bank of the United States, and place them in the Girard Bank.

The letters to the collectors at Bridgetown, Burlington, Great Egg Harbor, and Little Egg Harbor, received with your communication, have been forwarded agreeably to your direction.

I am, sir, very respectfully,
Your obedient servant,

J. N. BARKER, *Collector.*

The Hon. R. B. TANEY,
Secretary of the Treasury.

G.

Memorandum of an agreement made and entered into this twenty-eighth day of September, in the year of our Lord one thousand eight hundred and thirty-three, between "the Girard Bank, in the city of Philadelphia," and the United States of America.

1st. The said bank agrees to receive, and enter to the credit of the Treasurer of the United States, all sums of

money offered to be deposited on account of the United States, whether offered in gold or silver coin, in notes of the Bank of the United States or branches, in notes of any bank which are convertible into coin in its immediate vicinity, or in the notes of any bank which it is for the time being in the habit of receiving.

2d. If the deposite in the said bank shall exceed one-half of its capital stock actually paid in, it is agreed that collateral security, satisfactory to the Secretary of the Treasury, shall be given for its safe-keeping and faithful disbursement: *Provided*, That if the said Secretary shall at any time deem it necessary, the said bank agrees to give collateral security when the deposite shall not equal one-half the capital.

3d. The said bank agrees to make weekly returns of its entire condition to the Secretary of the Treasury, and to the Treasurer of the United States, of the state of his accounts, and submit its books and transactions to a critical examination by the Secretary, or any agent duly authorized by him, whenever he shall require it.

This examination may extend to all the books and accounts, to the cash on hand, and to all the acts and concerns of the bank, except the current accounts of individuals; or, as far as is admissible, without a violation of the bank charter.

4th. The said bank agrees to pay, out of the deposite on hand, all warrants or drafts which may be drawn upon it by the Treasurer of the United States, and to transfer any portion of that deposite to any other bank or banks employed by the Government within the United States, whenever the Secretary of the Treasury may require it, without charge to the Government for transportation or difference of exchange, commission, or any thing else whatsoever; but the Secretary of the Treasury shall give reasonable notice of the time when such transfer will be required.

5th. The said bank agrees to render to the Government, whenever required by the proper authority, all or any portion of the services now performed by the Bank of the United States, or which might be lawfully required of it in the vicinity of said contracting bank.

6th. If the Secretary of the Treasury shall think proper to employ an agent, or agents, to examine and report upon the accounts and condition of the banks in the service of the Government, or any of them, the said bank agrees to pay an equitable proportion of his or their expenses and compensation, according to such apportionments as may be made by the said Secretary.

7th. Whenever required by the Secretary of the Treasury, the said bank agrees to furnish, with all convenient despatch, bills of exchange on London, payable at such sight as may be required, at the usual market price for the time being, without commission, or advance for the profit of said bank, or any charge whatsoever beyond the actual cost, the payment of said bills to be guarantied by said bank.

8th. It is agreed that the Secretary of the Treasury may discharge the said bank from the service of the Government, whenever, in his opinion, the public interest may require it.

In witness whereof, the said Girard Bank, in the city of Philadelphia, has cause to be affixed its corporate seal, attested by the signatures of its president and cashier, on the day and year first above written.

JAMES SCHOTT, *President.*
[L. S.] WILLIAM D. LEWIS, *Cashier.*

H.

GIRARD BANK,
Philadelphia, September 28, 1833.

SIR: I have the honor to acknowledge the receipt of your favor of the 26th instant, informing me that you had selected this bank "as the depository of the public money collected in Philadelphia and its vicinity, and that the collector would hand me the form of a contract proposed to be executed, with a copy of his instructions from your Department.

The documents alluded to were accordingly furnished me this morning, and the contract has been duly executed on behalf of this bank, by order of the board of directors. It will doubtless reach you, through the medium of Major Barker, by the mail which conveys this.

In making the present announcement, I take occasion to express the high sense entertained by the directors of this institution of the honor conferred upon it by so distinguished a mark of your confidence, and to tender you the assurance that the duties we are about to undertake will be performed faithfully, and according to our best ability and judgment.

I am, very respectfully
Your obedient servant,
JAMES SCHOTT, *President.*

Hon. R. B. TANEY,
Secretary of the Treasury, Washington.

I.

TREASURY DEPARTMENT,
October 9, 1833.

SIR: This Department has selected your institution as one of the depositories of the public money of the United States, and I send you enclosed the draught of a contract which you will please have executed in proper form under the corporate seal of your institution, and forward it to the Department immediately. After you have done this, you will please forward the enclosed communications to the public officers to whom they are directed, they being instructions from the Department to deposite all public money in their hands, or which they may hereafter receive, in your institution, to the credit of the Treasurer of the United States. I also enclose to you circular instructions relative to deposites and accounts of public officers, to which I respectfully call your attention.

In selecting your institution as one of the fiscal agents of the Government, I not only rely on its solidity and established character as affording a sufficient guarantee for the safety of the public money intrusted to its keeping, but I confide also in its disposition to adopt the most liberal course which circumstances will admit towards other moneyed institutions generally, and particularly those in your vicinity.

The deposites of the public money will enable you to afford increased facilities to the commercial and other classes of the community, and the Department anticipates from you the adoption of such a course respecting your accommodations as will prove acceptable to the people and safe to the Government.

I am, very respectfully,
Your obedient servant,
R. B. TANEY,
Secretary of the Treasury.

To the PRESIDENT
of the Maine Bank, Portland, Me.

K.

MAINE BANK,
Portland, October 15, 1833.

SIR: Your communication of the 9th instant, covering articles of agreement intended to be executed by this institution, with sundry other documents, has been received. Our directors have agreed to the articles proposed by you, which are now enclosed: a title and conclusion have been added, as spaces were left, and it was supposed that a duplicate would be returned, executed by the Secretary of the Treasury, if he should deem it necessary. To pre-

vent delay, the paper is thus sent; still it is apprehended that liberty is left to the bank to be discharged from the responsibility assumed at any time, upon notice given to the Treasury Department.

Among the letters enclosed to us to be forwarded to the collectors of the revenue in this State, we do not find any communication addressed to Daniel Lane, collector of Belfast.

I am, very respectfully,
Your obedient servant,
A. NEWHALL, *President.*

Honorable R. B. Taney,
Secretary of the Treasury, Washington.

L.

Articles of Agreement made and concluded between Roger B. Taney, Secretary of the Treasury of the United States, on the one part, and the President, Directors, and Company of the Maine Bank, on the fifteenth day of October, in the year of our Lord one thousand eight hundred and thirty-three, of the other part.

1st. The said bank agrees to receive, and enter to the credit of the Treasurer of the United States, all sums of money offered to be deposited on account of the United States, whether offered in gold or silver coin, in notes of the Bank of the United States or branches, in notes of any bank which are convertible into coin in its immediate vicinity, or in notes of any bank which it is for the time being in the habit of receiving.

2d. If the deposite in said bank shall exceed one-half of its capital stock actually paid in, it is agreed that collateral security, satisfactory to the Secretary of the Treasury, shall be given for its safe-keeping and faithful disbursement: *Provided*, That if the said Secretary shall at any time deem it necessary, the said bank agrees to give collateral security when the deposite shall not equal one-half the capital.

3d. The said bank agrees to make weekly returns of its entire condition to the Secretary of the Treasury, and to the Treasurer of the United States, of the state of his accounts, and to submit its books and transactions to a critical examination by the Secretary of the Treasury, or any agent duly authorized by him, whenever he shall require it. This examination may extend to all the books and accounts, to the cash on hand, and to all the acts and concerns of the bank, except the current account of individuals, or as far as is admissible without a violation of the bank's charter.

4th. The said bank agrees to pay, out of the deposites on hand, all warrants or drafts which may be drawn upon it by the Treasurer of the United States, and to transfer any portions of that deposite to any other bank or banks employed by the Government within the United States, whenever the Secretary of the Treasury may require it, without charge to the Government for transportation or difference of exchange, commission, or any thing else whatsoever; but the Secretary of the Treasury shall give reasonable notice of the time when such transfer will be required.

5th. The bank agrees to render to the Government, whenever required by the proper authority, all or any portion of the services now performed by the Bank of the United States, or which might be lawfully required of it in the vicinity of said contracting bank.

6th. If the Secretary of the Treasury shall think proper to employ an agent or agents to examine and report upon the accounts and condition of the banks in the service of the Government, or any of them, the said bank agrees to pay an equitable proportion of his or their expenses and compensation, according to such apportionment as may be made by the said Secretary.

7th. It is agreed that the Secretary of the Treasury may discharge the said bank from the service of the Government, whenever, in his opinion, the public interest may require it.

In testimony whereof, the said Secretary of the Treasury hath hereunto subscribed his hand, and caused the seal of the Treasury to be affixed, and the President of the said Maine Bank hath subscribed these presents, and affixed the seal of said bank, the day and year first above written.

[L. S.] ALBERT NEWHALL,
President of the Maine Bank.

M.

Franklin Bank of Cincinnati,
October 18, 1833.

Sir: Your favor of the 9th instant to the president, announcing the appointment of this institution as "one of the depositories of the money of the United States," was duly received, and yesterday the contract, executed as you desired, was forwarded by mail to your Department.

The letters which accompanied your instructions, addressed to ten "Receivers of Public Moneys" in Ohio and Indiana, have been placed in the Post Office, as requested.

This bank will endeavor to conform, in its periodical returns to the Treasury, to all the regulations prescribed, and we trust the business will in every respect be conducted to the satisfaction of the Government.

I have the honor to be,
Your very obedient servant,
AUGUSTUS MOORE, *Cashier.*

The Hon. the Secretary *of the Treasury.*

N.

Memorandum of Agreement made and entered into, on the 17th day of October, in the year eighteen hundred and thirty-three, between the President, Directors, and Company of the Franklin Bank of Cincinnati, and the Secretary of the Treasury of the United States.

1st. The said bank agrees to receive, and enter to the credit of the Treasurer of the United States, all sums of money offered to be deposited on account of the United States, whether offered in gold or silver coin, in notes of the Bank of the United States or branches, in notes of any bank which are convertible into coin, and which is situated in the same State with the aforesaid bank, or in any of the adjoining States, or in notes of any bank which it is for the time being in the habit of receiving.

2d. If the deposite in said bank shall exceed one-half of its capital stock actually paid in, it is agreed that collateral security, satisfactory to the Secretary of the Treasury, shall be given for its safe-keeping and faithful disbursement: *Provided*, that if the said Secretary shall at any time deem it necessary, the said bank agrees to give collateral security when the deposite shall not equal one-half the capital.

3d. The said bank agrees to make weekly returns of its entire condition to the Secretary of the Treasury, and to the Treasurer of the United States, of the state of his accounts, and to submit its books and transactions to a critical examination by the Secretary of the Treasury, or any agent duly authorized by him, whenever he shall require it. This examination may extend to all the books and accounts, to the cash on hand, and to all the acts and concerns of the bank, except the current accounts of individuals, or as far as is admissible without a violation of the bank's charter.

4th. The said bank agrees to pay, out of the deposites on hand, all warrants or drafts which may be drawn upon it by the Treasurer of the United States, to transfer any portions of that deposite to any other bank or banks employed by the Government within the United States, whenever the Secretary of the Treasury may require it,

without charge to the Government for transportation, or difference of exchange, commission, or any thing else whatsoever: but the Secretary of the Treasury shall give reasonable notice of the time when such transfer will be required.

5th. The said bank agrees to render to the Government, whenever required by the proper authority, all or any portion of the services now performed by the Bank of the United States, or which might be lawfully required of it, in the vicinity of said contracting bank.

6th. If the Secretary of the Treasury shall think proper to employ an agent or agents to examine and report upon the accounts and condition of the banks in the service of the Government, or any of them, the said bank agrees to pay an equitable proportion of his or their expenses and compensation, according to such apportionment as may be made by the said Secretary.

7th. It is agreed that the Secretary of the Treasury may discharge the said bank from the service of the Government, whenever, in his opinion, the public interest may require it.

In testimony whereof, the said President, Directors, and Company of the Franklin Bank of Cincinnati have affixed the seal of their said corporation, and caused the same to be attested by their president and cashier, the day and date before written.

J. H. GROSBECK, *President.*

Augustus Moore, *Cashier.*

O.

Treasury Department, *October* 5, 1833.

Sir: In pursuance of the power reserved to the Secretary of the Treasury by the sixteenth section of the act incorporating the Bank of the United States, I directed the money of the United States, collected in Washington, Baltimore, Philadelphia, New York, and Boston, on and after the first of this present month, to be deposited in certain local banks which I have designated as the depositories of the public money; and arrangements are now in progress to make a similar change throughout the United States.

It is believed that public money, when placed at the disposition of a public officer, in order to be applied to the public service, remains the money of the United States while it continues in the hands of the disbursing agent, and is consequently subject to the control of the Secretary of the Treasury, as to the place of its deposite.

I therefore respectfully propose for your consideration and sanction—

First. That all public money, placed at the disposition of the public officers, shall be deposited in one of the banks having the deposites of the public money, if there be any such bank at the place where it is to be disbursed, where the nature of the disbursement will admit of such deposite.

Second. That the banks employed as depositories of the public money, in the returns of the state of said banks, required by the Treasury Department, shall present an account of all public money deposited in them to the credit of any public officer, and show the amount at the disposition of such officer at the date of the return.

Third That the Treasury Department, when required by either of the other Departments, shall furnish a transcript of the return of any bank, showing the amount standing to the credit of every, or of any, officer of such Department.

All which is respectfully submitted.

R. B. TANEY,
Secretary of the Treasury.

To the President *of the United States.*

Approved: October 5, 1833.

ANDREW JACKSON.

P.

Copy of a circular addressed to the Departments of State, War, and Navy.

Treasury Department, *October* 5, 1833.

Sir: I have the honor to enclose a copy of an order adopted by this Department, and sanctioned by the President, in relation to the deposite of the public money in the hands of the disbursing agents of the United States, and respectfully invite your co-operation in carrying it into execution.

A list of the selected banks is hereto annexed, and you shall be advised, from time to time, of the additional changes.

I have the honor to be, sir, your obedient servant,

R. B. TANEY,
Secretary of the Treasury.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES, RETURNING THE LAND BILL.

In Senate, *December* 5, 1833.

The following message was received from the President of the United States, (through Mr. Donelson, his private Secretary,) returning, with his objections, the bill which originated in the Senate at its last session, "appropriating for a limited time the proceeds of the sales of the public lands, and for other purposes."

To the Senate of the United States:

At the close of the last session of Congress I received from that body a bill entitled "An act to appropriate for a limited time the proceeds of the sales of the public lands of the United States, and for granting lands to certain States." The brief period then remaining before the rising of Congress, and the extreme pressure of official duties, unavoidable on such occasions, did not leave me sufficient time for that full consideration of the subject which was due to its great importance. Subsequent consideration and reflection have, however, confirmed the objections to the bill which presented themselves to my mind upon its first perusal, and have satisfied me that it ought not to become a law. I felt myself, therefore, constrained to withhold from it my approval, and now return it to the Senate, in which it originated, with the reasons on which my dissent is founded.

I am fully sensible of the importance, as it respects both the harmony and union of the States, of making, as soon as circumstances will allow of it, a proper and final disposition of the whole subject of the public lands; and any measure for that object, providing for the reimbursement to the United States of those expenses with which they are justly chargeable, that may be consistent with my views of the constitution, sound policy, and the rights of the respective States, will readily receive my co-operation. This bill, however, is not of that character. The arrangement it contemplates is not permanent, but limited to five years only, and in its terms appears to anticipate alterations within that time, at the discretion of Congress; and it furnishes no adequate security against those continued agitations of the subject which it should be the principal object of any measure for the disposition of the public lands to avert.

Neither the merits of the bill under consideration, nor the validity of the objections which I have felt it to be my duty to make to its passage, can be correctly appreciated without a full understanding of the manner in which the public lands, upon which it is intended to operate, were acquired, and the conditions upon which they are now held by the United States. I will, therefore, precede the statement of those objections by a brief but distinct exposition of these points.

The waste lands within the United States constituted

one of the early obstacles to the organization of any Government for the protection of their common interests. In October, 1777, while Congress were framing the articles of confedation, a proposition was made to amend them to the following effect, viz.

"That the United States in Congress assembled, shall have the sole and exclusive right and power to ascertain and fix the western boundary of such States as claim to the Mississippi or South sea, and lay out the land beyond the boundary so ascertained, into separate and independent States, from time to time, as the numbers and circumstances of the people thereof may require."

It was, however, rejected, Maryland only voting for it; and so difficult did the subject appear, that the patriots of that body agreed to waive it in the articles of confederation, and leave it for future settlement.

On the submission of the articles to the several State Legislatures for ratification, the most formidable objection was found to be in this subject of the waste lands. Maryland, Rhode Island, and New Jersey, instructed their Delegates in Congress to move amendments to them, providing that the waste or crown lands should be considered the common property of the United States; but they were rejected. All the States, except Maryland, acceded to the articles, notwithstanding some of them did so with the reservation, that their claim to those lands, as common property, was not thereby abandoned.

On the sole ground that no declaration to that effect was contained in the Articles, Maryland withheld her assent, and in May, 1779, imbodied her objections in the form of instructions to her delegates, which were entered upon the journals of Congress. The following extracts are from that document, viz:

"Is it possible that those States who are ambitiously grasping at territories, to which, in our judgment, they have not the least shadow of exclusive right, will use with greater moderation the increase of wealth and power, derived from those territories, when acquired, than what they have displayed in their endeavors to acquire them?" &c.

"We are convinced policy and justice require that a country unsettled at the commencement of this war, claimed by the British Crown, and ceded to it by the treaty of Paris, if wrested from the common enemy by the blood and treasure of the Thirteen States, should be considered as a common property, subject to be parcelled out by Congress into free, convenient, and independent Governments, in such manner and at such times as the wisdom of that assembly shall hereafter direct," &c.

Virginia proceeded to open a land office for the sale of her western lands, which produced such excitement as to induce Congress in October, 1779, to interpose and earnestly recommend to "the said State and all States similarly circumstanced, to forbear settling or issuing warrants for such unappropriated lands, or granting the same during the continuance of the present war."

In March, 1780, the Legislature of New York passed an act tendering a cession to the United States of the claims of that State to the western territory, preceded by a preamble to the following effect, viz:

"Whereas, nothing under Divine Providence can more effectually contribute to the tranquillity and safety of the United States of America than a federal alliance on such liberal principles as will give satisfaction to its respective members; and whereas, the articles of confederation and perpetual union recommended by the honorable Congress of the United States of America, have not proved acceptable to all the States, it having been conceived that a portion of the waste and uncultivated territory within the limits or claims of certain States, ought to be appropriated as a common fund for the expenses of the war; and the people of the State of New York being on all occasions disposed to manifest their regard for their sister States, and their earnest desire to promote the general interest and security, and more especially to accelerate the federal alliance, by removing, as far as it depends upon them, the before-mentioned impediment to its final accomplishment, &c.

This act of New York, the instructions of Maryland, and a remonstrance of Virginia, were referred to a committee of Congress, who reported a preamble and resolutions thereon, which were adopted on the 6th September, 1780; so much of which as is necessary to elucidate the subject is to the following effect, viz:

"That it appears advisable to press upon those States which can remove the embarrassments respecting the Western country, a liberal surrender of a portion of their territorial claims, since they cannot be perceived entire without endangering the stability of the general confederacy; to remind them how indispensably necessary it is to establish the Federal Union on a fixed and permanent basis, and on principles acceptable to all its respective members; how essential to public credit and confidence, to the support of our army, to the vigor of our councils, and success of our measures, to our tranquillity at home, our reputation abroad, to our very existence as a free, sovereign, and independent people; that they are fully persuaded the wisdom of the several Legislatures will lead them to a full and impartial consideration of a subject so interesting to the United States, and so necessary to the happy establishment of the Federal Union; that they are confirmed in these expectations by a review of the before-mentioned act of the Legislature of New York, submitted to their consideration," &c.

"*Resolved*, That copies of the several papers, referred to the committee, be transmitted with a copy of the report, to the Legislatures of the several States, and that it be earnestly recommended to those States who have claims to the Western country, to pass such laws, and give their delegates in Congress such powers as may effectually remove the only obstacle to a final ratification of the articles of confederation; and that the Legislature of Maryland be earnesly requested to authorize their delegates in Congress to subscribe the said articles."

Following up this policy, Congress proceeded, on the 10th October, 1780, to pass a resolution pledging the United States to the several States as to the manner in which any lands that might be ceded by them should be disposed of, the material parts of which are as follows, viz:

"*Resolved*, That the unappropriated lands which may be ceded or relinquished to the United States, by any particular State, pursuant to the recommendation of Congress of the 6th day of September last, shall be disposed of for the common benefit of the United States, and be settled and formed into distinct republican States, which shall become members of the Federal Union, and have the same rights of sovereignty, freedom, and independence, as the other States," &c. "That the said lands shall be granted or settled at such times and under such regulations as shall hereafter be agreed on by the United States in Congress assembled, or nine or more of them."

In February, 1781, the Legislature of Maryland passed an act authorizing their delegates in Congress to sign the articles of confederation. The following are extracts from the preamble and body of the act, viz:

"Whereas, it hath been said that the common enemy is encouraged by this State not acceding to the confederation to hope that the union of the sister States may be dissolved, and therefore prosecutes the war in expectation of an event so disgraceful to America; and our friends and illustrious ally are impressed with an idea that the common cause would be promoted by our formally acceding to the confederation," &c.

The act, of which this is the preamble, authorizes the delegates of that State to sign the articles, and proceeds

to declare, "that, by acceding to the said confederation, this State doth not relinquish, nor intend to relinquish, any right or interest she hath, with the other united or confederated States to the back country," &c.

On the 1st of March, 1781, the Delegates of Maryland signed the articles of confederation, and the Federal Union under that compact was complete. The conflicting claims to the Western lands, however, were not disposed of, and continued to give great trouble to Congress. Repeated and urgent calls were made by Congress upon the States claiming them, to make liberal cessions to the United States, and it was not until long after the present constitution was formed, that the grants were completed.

The deed of cession from New York was executed on the 1st March, 1781, the day the articles of confederation were ratified, and it was accepted by Congress on the 29th October, 1782. One of the conditions of this cession, thus tendered and accepted, was, that the lands ceded to the United States "*shall be and enure for the use and benefit of such of the United States as shall become members of the Federal Alliance of the said States, and for no other use or purpose whasotever.*"

The Virginia deed of cession was executed and accepted on the first day of March, 1784. One of the conditions of this cession is as follows, viz:

"That all the lands within the territory as ceded to the United States, and not reserved for, or appropriated to, any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, *shall be considered as a common fund for the use and benefit of such of the United States as has become or shall become members of the Confederation or Federal Alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever.*"

Within the years 1785, 1786, and 1787, Massachusetts, Connecticut, and South Carolina, ceded their claims upon similar conditions. The Federal Government went into operation under the existing constitution on the 4th of March, 1789. The following is the only provision of that constitution which has a direct bearing on the subject of the public lands, viz:

"The Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States, and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular State."

Thus the constitution left all the compacts, before made, it full force; and the rights of all parties remained the same under the new Government as they were under the confederation.

The deed of cession of North Carolina was executed in December, 1789, and accepted by an act of Congress, approved April 2, 1790. The third condition of this cession was in the following words, viz:

"That all the lands intended to be ceded by virtue of this act to the United States of America, and not appropriated as before mentioned, *shall be considered as a common fund, for the use and benefit of the United States of America, North Carolina inclusive, according to their respective and usual proportions of the general charge and expenditure, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatsoever* "

The cession of Georgia was completed on the 16th of June, 1802, and, in its leading condition, is precisely like that of Virginia and North Carolina. This grant completed the title of the United States to all those lands generally called *public lands*, lying within the original limits of the confederacy. Those which have been acquired by the purchase of Louisiana and Florida, having been paid for out of the common treasure of the United States, are as much the property of the General Government, to be disposed of for the common benefit, as those ceded by the several States.

By the facts here collected from the early history of our republic, it appears that the subject of the public lands entered into the elements of its institutions. It was only upon the condition that those lands should be considered as common property, to be disposed of for the benefit of the United States, that some of the States agreed to come into a "perpetual union." The States claiming those lands, acceded to those views, and transferred their claims to the United States upon certain specific conditions, and on those conditions the grants were accepted. These solemn compacts, invited by Congress in a resolution declaring the purposes to which the proceeds of these lands should be applied, originating before the constitution, and forming the basis on which it was made, bound the United States to a particular course of policy in relation to them, by ties as strong as can be invented to secure the faith of nations.

As early as May, 1785, Congress, in execution of these compacts, passed an ordinance providing for the sales of lands in the Western territory, and directing the proceeds to be paid into the Treasury of the United States. With the same object, other ordinances were adopted prior to the organization of the present Government.

In further execution of these compacts, the Congress of the United States, under the present constitution, as early as the 4th August, 1790, in "An act making provision for the debt of the United States," enacted as follows, viz.

"That the proceeds of sales which shall be made of lands in the Western territory, now belonging or that may hereafter belong to the United States, shall be, and are hereby appropriated towards sinking or discharging the debts for the payment whereof the United States now are, or by virtue of this act may be holden, and shall be applied solely to that use, until the said debt shall be fully satisfied."

To secure to the Government of the United States, forever, the power to execute these compacts in good faith, the Congress of the confederation, as early as July 13th, 1787, in an ordinance for the government of the territory of the United States northwest of the river Ohio, prescribed to the people inhabiting the Western territory, certain conditions which were declared to be "articles of compact between the original States and the people and States in the said territory" which should "forever remain unalterable, unless by common consent." In one of these articles it is declared that—

"The Legislatures of those districts, or new States, shall never interfere with the primary disposal of the soil, by the United States in Congress assembled, nor with any regulation Congress may find necessary for securing the title in such soil to the *bona fide* purchasers."

This condition has been exacted from the people of all the new territories; and, to put its obligation beyond dispute, each new State, carved out of the public domain, has been required explicitly to recognise it as one of the conditions of admission into the Union. Some of them have declared through their conventions, in separate acts, that their people "forever disclaim all right and title to the waste and unappropriated lands lying within this State, and that the same shall be and remain at the sole and entire disposition of the United States."

With such care have the United States reserved to themselves, in all their acts down to this day—in legislating for the Territories and admitting States into the Union—the unshackled power to execute in good faith the compacts of cession made with the original States. From these facts and proceedings it plainly and certainly results:

1. That one of the fundamental principles on which

the confederation of the United States was originally based, was, that the waste land of the West within their limits should be the common property of the United States.

2. That those lands were ceded to the United States by the States which claimed them, and the cessions were accepted, on the express condition that they should be disposed of for the common benefit of the States, according to their respective proportions in the general charge of expenditure, and for no other purpose whatsoever.

3. That, in execution of these solemn compacts, the Congress of the United States did, under the confederation, proceed to sell these lands, and put the avails into the common treasury; and, under the new constitution, did repeatedly pledge them for the payment of the public debt of the United States, by which pledge each State was expected to profit, in proportion to the general charge made upon it for that object.

These are the first principles of this whole subject, which, I think, cannot be contested by any one who examines the proceedings of the revolutionary Congress, the cessions of the several States, and the acts of Congress under the new constitution. Keeping them deeply impressed upon the mind, let us proceed to examine how far the objects of the cessions have been completed, and see whether those compacts are not still obligatory upon the United States.

The debt for which those lands were pledged by Congress may be considered as paid, and they are consequently released from that lien. But that pledge formed no part of the compacts with the States, or of the conditions upon which the cessions were made. It was a contract between new parties—between the United States and their creditors. Upon payment of the debts, the compacts remain in full force, and the obligation of the United States to dispose of the lands for the common benefit is neither destroyed nor impaired. As they cannot now be executed in that mode, the only legitimate question which can arise is, in what other way are these lands to be hereafter disposed of for the common benefit of the several States "*according to their respective and usual proportion in the general charge and expenditure.*" The cessions of Virginia, North Carolina, and Georgia, in express terms, and all the rest impliedly, not only provide thus specifically the proportion according to which each State shall profit by the proceeds of the land sales, but they proceed to declare that they shall be "*faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever.*" This is the fundamental law of the land at this moment, growing out of compacts which are older than the constitution, and formed the cornerstone on which the Union itself was erected.

In the practice of the Government, the proceeds of the public lands have not been set apart *as a separate fund* for the payment of the public debt, but have been and are now paid into the Treasury, where they constitute a part of the aggregate of revenue upon which the Government draws as well for its current expenditures as for the payment of the public debt. In this manner they have heretofore, and do now, lessen the general charge upon the people of the several States in the exact proportions stipulated in the compacts.

These general charges have been composed not only of the public debt, and the usual expenditures attending the civil and military administrations of the Government, but of the amounts paid to the States with which these compacts were formed, the amounts paid the Indians for their right of possession, the amounts paid for the purchase of Louisiana and Florida, and the amounts paid surveyors, registers, receivers, clerks, &c., employed in preparing for market and selling the Western domain. From the origin of the land system, down to September 30, 1832, the amount expended for all these purposes has been about $49,701,280; and the amount received from the sales, deducting payments on account of roads, &c., about $38,386,624. The revenue arising from public lands, therefore, has not been sufficient to meet the general charges on the Treasury which have grown out of them, by about $11,314,656. Yet, in having been applied to lessen those charges, the conditions of the compacts have been thus far fulfilled, and each State has profited according to its usual proportion in the general charge and expenditure. The annual proceeds of land sales have increased, and the charges have diminished; so that, at a reduced price, those lands would now defray all current charges growing out of them, and save the Treasury from further advances on their account. Their original intent and object, therefore, would be accomplished as fully as it has hitherto been, by reducing the price, and hereafter, as heretofore, bringing the proceeds into the Treasury. Indeed, as this is the only mode in which the objects of the original compacts can be obtained, it may be considered, for all practical purposes, that it is one of their requirements.

The bill before me begins with an entire subversion of every one of the compacts by which he United States became possessed of their Western domain, and treats the subject as if they never had existence, and as if the United States were the original and unconditional owners of all the public lands. The first section directs—

"That, from and after the 31st of December, 1832, there shall be allowed and paid to each of the States of Ohio, Indiana, Illinois, Alabama, Missouri, Mississippi, and Louisiana, over and above what each of the said States is entitled to by the terms of the compacts entered into between them respectively upon their admission into the Union and the United States, the sum of twelve and a half per centum upon the nett amount of the sales of the public lands which, subsequent to the day aforesaid, shall be made within the several limits of the said States; which said sum of twelve and a half per centum shall be applied to some object or objects of internal improvement or education within the said Ssates, under the direction of their several Legislatures."

This twelve and a half per centum is to be taken out of the nett proceeds of the land sales before any apportionment is made; and the same seven States which are first to receive this proportion, are also to receive their due proportion of the residue, according to the ratio of general distribution.

Now, waiving all considerations of equity or policy in regard to this provision, what more need be said to demonstrate its objectionable character, than that it is in direct and undisguised violation of the pledge given by Congress to the States before a single cession was made; that it abrogates the condition upon which some of the States came into the Union; and that it sets at naught the terms of cession spread upon the face of every grant under which the title to that portion of the public lands is held by the Federal Government.

In the apportionment of the remaining seven-eighths of the proceeds, this bill, in a manner equally undisguised, violates the conditions upon which the United States acquired title to the ceded lands. Abandoning altogether the ratio of distribution according to the general charge and expenditure provided by the compacts, it adopts that of the federal representative population. Virginia, and other States, which ceded their lands upon the express condition that they should receive a benefit from their sales, in proportion to their part of the general charge, are by the bill allowed only a portion of seven-eighths of their proceeds, and that not in the proportion of general charge and expenditure, but in the ratio of their federal representative population.

The constitution of the United States did not delegate to Congress the power to abrogate these compacts; on

the contrary, by declaring that nothing in it "*shall be so construed as to prejudice any claims of the United States, or of any particular State,*" it virtually provides that these compacts, and the rights they secure, shall remain untouched by the Legislative power, which shall only make all "*needful rules and regulations*" for carrying them into effect. All beyond this would seem to be an assumption of undelegated power.

These ancient compacts are invaluable monuments of an age of virtue, patriotism, and disinterestedness. They exhibit the price that great States, which had won liberty, were willing to pay for that union, without which they plainly saw it could not be preserved. It was not for territory or State power that our revolutionary fathers took up arms; it was for individual liberty, and the right of self-government. The expulsion from the continent of British armies and British power, was then a barren conquest, if, through the collisions of the redeemed States, the individual rights for which they fought should become the prey of petty military tyrannies, established at home. To avert such consequences, and throw around liberty the shield of union, States, whose relative strength at the time gave them a preponderating power, magnanimously sacrificed domains which would have made them the rivals of empires, only stipulating that they should be disposed of for the common benefit of themselves and the other confederated States. This enlighteend policy produced union, and has secured liberty; it has made our waste lands to swarm with busy people, and added many powerful States to our confederation. As well for the fruits which these noble works of our ancestors have produced, as for the devotedness in which they originated, we should hesitate before we demolish them.

But there are other principles asserted in the bill which would have impelled me to withhold my signature, had I not seen in it a violation of the compacts by which the United States acquired title to a large portion of the public lands. It re-asserts the principle contained in the bill authorizing a subscription to the stock of the Maysville, Washington, Paris, and Lexington Turnpike Road Company, from which I was compelled to withhold my consent for reasons contained in my message of the 27th May, 1830, to the House of Representatives. The leading principle then asserted was, that Congress possesses no constitutional power to appropriate any part of the moneys of the United States for objects of a local character, within the States. That principle, I cannot be mistaken in supposing, has received the unequivocal sanction of the American people, and all subsequent reflection has but satisfied me more thoroughly, that the interests of our people, and the purity of our Government, if not its existence, depend on its observance. The public lands are the common property of the United States, and the moneys arising from their sales, are a part of the public revenue. This bill proposes to raise from and appropriate a portion of this public revenue to certain States, providing expressly, that it shall "*be applied to objects of internal improvement or education within those States,*" and then proceeds to appropriate the balance to all the States, with the declaration, that it shall be applied "*to such purposes as the Legislatures of the said respective States shall deem proper.*" The former appropriation is expressly for internal improvements or education, without qualification as to the kind of improvements, and therefore in express violation of the principle maintained in my objections to the turnpike road bill, above referred to. The latter appropriation is more broad, and gives the money to be applied to any local purpose whatsoever. It will not be denied that, under the provisions of the bill, a portion of the money might have been applied to making the very road to which the bill of 1830 had reference, and must of course come within the scope of the same principle. If the money of the United States cannot be applied to local purposes *through its own agents*, as little can it be permitted to be thus expended *through the agency of the State Governments.*

It has been supposed that with all the reductions in our revenue which could be speedily effected by Congress without injury to the substantial interests of the country, there might be for some years to come a surplus of moneys in the Treasury, and that there was, in principle, no objection to returning them to the people by whom they were paid. As the literal accomplishment of such an object is obviously impracticable, it was thought admissible, as the nearest approximation to it, to hand them over to the State Governments, the more immediate representatives of the people, to be by them applied to the benefit of those to whom they properly belonged. The principle and the object was, to return to the people an unavoidable surplus of revenue which might have been paid by them under a system which could not at once be abandoned; but even this resource, which at one time seemed to be almost the only alternative to save the General Government from grasping unlimited power over internal improvements, was suggested with doubts of its constitutionality.

But this bill assumes a new principle. Its object is not to return to the people an unavoidable surplus of revenue paid in by them, but to create a surplus for distribution among the States. It seizes the entire proceeds of one source of revenue and sets them apart as a surplus, making it necessary to raise the moneys for supporting the Government and meeting the general charges from other sources.. It even throws the entire land system upon the customs for its support, and makes the public lands a perpetual charge upon the Treasury. It does not return to the people moneys accidentally or unavoidably paid by them to the Government, by which they are not wanted; but compels the people to pay moneys into the Treasury for the mere purpose of creating a surplus for distribution to their State Governments. If this principle be once admitted, it is not difficult to perceive to what consequences it may lead. Already this bill, by throwing the land system on the revenues from imports for support, virtually distributes among the States a part of those revenues. The proportion may be increased, from time to time, without any departure from the principle now asserted, until the State Governments shall derive all the funds necessary for their support from the Treasury of the United States, or, if a sufficient supply should be obtained by some States and not by others, the deficient States might complain, and to put an end to all further difficulty, Congress, without assuming any new principle, need go but one step further, and put the salaries of all the State governors, judges, and other officers, with a sufficient sum for other expenses, in their general appropriation bill.

It appears to me that a more direct road to consolidation cannot be devised. Money is power; and, in that Government which pays all the public officers of the States, will all political power be substantially concentrated. The State Governments, if Governments they might be called, would lose all their independence and dignity. The economy which now distinguishes them, would be converted into a profusion, limited only by the extent of the supply. Being the dependants of the General Government, and looking to its Treasury as the source of all their emoluments, the State officers, under whatever names they might pass, and by whatever forms their duties might be prescribed, would, in effect, be the mere stipendiaries and instruments of the central power.

I am quite sure that the intelligent people of our several States will be satisfied, on a little reflection, that it is neither wise nor safe to release the members of their local legislatures from the responsibility of levying the taxes necessary to support their State Governments, and vest it in Congress, over most of whose members they have no

control. They will not think it expedient that Congress shall be the tax-gatherer and paymaster of all their State Governments, thus amalgamating all their officers into one mass of common interest and common feeling. It is too obvious that such a course would subvert our well-balanced system of Government, and ultimately deprive us of all the blessings now derived from our happy Union.

However willing I might be that any unavoidable surplus in the Treasury should be returned to the people through their State Governments, I cannot assent to the principle that a surplus may be created for the purpose of distribution. Viewing this bill as in effect assuming the right, not only to create a surplus for that purpose but to divide the contents of the Treasury among the States without limitation, from whatever source they may be derived, and asserting the power to raise and appropriate money for the support of every State Government and institution, as well as for making every local improvement, however trivial, I cannot give it my assent.

It is difficult to perceive what advantages would accrue to the old States or the new, from the system of distribution which this bill proposes, if it were otherwise unobjectionable. It requires no argument to prove that if three millions of dollars a year, or any other sum, shall be taken out of the Treasury by this bill for distribution, it must be replaced by the same sum collected from the people through some other means. The old States will receive annually a sum of money from the Treasury, but they will pay in a larger sum, together with the expenses of collection and distribution. It is only their proportion of seven-eighths of the proceeds of land sales which they are to receive; but they must pay their due proportion of the whole. Disguise it as we may, the bill proposes to them a dead loss, in the ratio of eight to seven, in addition to expenses and other incidental losses. This assertion is not the less true because it may not at first be palpable. Their receipts will be in large sums, but their payments in small ones. The Governments of the States will receive seven dollars for which the people of the States will pay eight. The large sums received will be palpable to the senses; the small sums paid, it requires thought to identify. But a little consideration will satisfy the people that the effect is the same as if seven hundred dollars were given them from the public treasury, for which they were at the same time required to pay in taxes, direct or indirect, eight hundred.

I deceive myself greatly if the new States would find their interests promoted by such a system as this bill proposes. Their true policy consists in the rapid settling and improvement of the waste lands within their limits. As a means of hastening those events, they have long been looking to a reduction in the price of the public lands upon the final payment of the national debt. The effect of the proposed system would be to prevent that reduction. It is true, the bill reserves to Congress the power to reduce the price, but the effect of its details, as now arranged, would probably be forever to prevent its exercise.

With the just men who inhabit the new States, it is a sufficient reason to reject this system, that it is in violation of the fundamental laws of the republic and its constitution. But if it were a mere question of interest or expediency, they would still reject it. They would not sell their bright prospect of increasing wealth and growing power at such a price. They would not place a sum of money to be paid into their treasuries in competition with the settlement of their waste lands and the increase of their population. They would not consider a small or a large annual sum to be paid to their Governments and immediately expended, as an equivalent for that enduring wealth which is composed of flocks and herds and cultivated farms. No temptation will allure them from that object of abiding interest, the settlement of their waste lands, and the increase of a hardy race of free citizens—their glory in peace, and their defence in war.

On the whole, I adhere to the opinion expressed by me in my annual message of 1832, that it is our true policy that the public lands shall cease as soon as practicable to be a source of revenue, except for the payment of those general charges which grow out of the acquisition of the lands, their survey and sale. Although these expenses have not been met by the proceeds of sales heretofore, it is quite certain they will be hereafter, even after a considerable reduction in the price. By meeting in the Treasury so much of the general charge as arises from that source, they will hereafter, as they have been heretofore, be disposed of for the common benefit of the United States, according to the compacts of cession. I do not doubt that it is the real interest of each and all the States in the Union, and particularly of the new States, that the price of these lands shall be reduced and graduated; and that after they have been offered for a certain number of years, the refuse remaining unsold shall be abandoned to the States, and the machinery of our land system entirely withdrawn. It cannot be supposed the compacts intended that the United States should retain for ever a title to lands within the States which are of no value, and no doubt is entertained that the general interest would be best promoted by surrendering such lands to the States.

This plan for disposing of the public lands impairs no principle, violates no compact, and deranges no system. Already has the price of those lands been reduced from two dollars per acre to one dollar and a quarter, and upon the will of Congress it depends whether there shall be a further reduction. While the burdens of the East are diminishing by the reduction of the duties upon imports, it seems but equal justice that the chief burden of the West should be lightened in an equal degree at least. It would be just to the old States and the new, conciliate every interest, disarm the subject of all its dangers, and add another guarantee to the perpetuity of our happy Union.

Sensible, however, of the difficulties which surround this important subject, I can only add to my regrets at finding myself again compelled to disagree with the legislative power, the sincere declaration that any plan which shall promise a final and satisfactory disposition of the question, and be compatible with the constitution and public faith, shall have my hearty concurrence.

ANDREW JACKSON.

December 4, 1833.

MEMORIAL OF GOVERNMENT DIRECTORS BANK UNITED STATES.

To the Senate and House of Representatives of the United States of America in Congress assembled:

The memorial of Henry D. Gilpin, John T. Sullivan, and Peter Wager, of Pennsylvania, and Hugh McElderry, of Maryland, Directors of the Bank of the United States, appointed by the President, by and with the advice and consent of the Senate, respectfully shows:

Selected by the President and Senate as Directors of the Bank of the United States, we have endeavored, during the present year, faithfully to discharge the duties of that responsible trust. Appointed without solicitation, deriving from the office no emolument, we have been guided in our conduct by no views but a determination to uphold, so far as was in our power, those principles which we believe actuated the people of the United States in establishing a national bank, and in providing by its charter that they should be represented at the board of directors. We have regarded that institution, not as a source of profit to individuals, but as an organ of the Govern-

ment, established by the nation for its own benefit. We have regarded ourselves, not as mere agents of those whose funds have been subscribed towards the capital of the bank, but as officers appointed on behalf of the American people. We have endeavored to govern all our conduct as faithful representatives of them. We have been deterred from this by no preconcerted system to deprive us of our rights, by no impeachment of our motives, by no false views of policy, by no course of management which might be supposed to promote the interests of those concerned in the institution, at the danger or sacrifice of the general good. We have left the other directors to govern themselves as they may think best for the interests of those by whom they were chosen. For ourselves, we have been determined, that where any differences have arisen, involving on the one hand that open and correct course which is beneficial to the whole community, and, on the other, what are supposed to be the interests of the bank, our efforts should be steadily directed to uphold the former, our remonstrances against the latter should be resolute and constant; and, when they proved unavailing, our appeal should be made to those who were more immediately intrusted with the protection of the public welfare.

In pursuing this course we have been met by an organized system of opposition, on the part of the majority. Our efforts have been thwarted, our motives and actions have been misrepresented, our rights have been denied, and the limits of our duties have been gratuitously pointed out to us, by those who have sought to curtail them to meet their own policy, not that which we believe led to the creation of the offices we hold. Asserting that injury has been done to them by the late measure of the Secretary of the Treasury, in removing the public deposites, an elaborate statement has been prepared and widely circulated, and taking that as their basis, it has been resolved by the majority to present a memorial to the Senate and House of Representatives. We have not and do not interfere in the controversy which exists between the majority of the board and the Executive department of the Government; but, unjustly assailed as we have been in the statement to which we have referred, we respectfully claim the same right of submitting our conduct to the same tribunal, and asking of the assembled representatives of the American people that impartial hearing, and that fair protection, which all their officers and all citizens have a right to demand. We shall endeavor to present the view we have taken of the relation in which we are placed, as well towards the institution in question as towards the Government and people of the United States, to prove that from the moment we took our seats among the directors of the bank, we have been the objects of a systematic opposition; our rights trampelled upon, our just interference prevented, and our offices rendered utterly useless, for all the purposes required by the charter; and to show that the statements by the majority of the board, in the document to which we refer, convey an account of their proceedings and conduct altogether illusory and incorrect.

It has pleased the majority of the board of directors, in the document to which we refer, in order, we suppose, in some degree to extenuate their conduct in systematically nullifying the representatives of the Government and people, to deny that the public directors are seated at the board in any other relation than themselves; to deny the existence of any difference in the official character and duty of themselves and us. This extraordinary denial, in the face of all experience of the familiar history of the country, and of palpable reasoning, must rather be ascribed to the presumption which moneyed power is apt to inspire, than to the ignorance or wilful misrepresentation of those who make it. Nothing can be plainer, than that the public directors were devised as instruments for the attainment of public objects; that their being insisted upon in the charter itself, was in obedience to the will of those who elected the legislative body by which it was passed; and that their appointment was given to the President, with the advice and consent of the Senate of the United States, (not to the mere fiscal representative,) in order to clothe them with all the character of official representation, and to exact from them a discharge of all the duties, public, political, and patriotic, incident to a trust so conferred. If we are mistaken in this, we acknowledge that our solicitude about the rights and morals—the practical purity and freedom of our countrymen—has misled us. But we know that we are not.

In the celebrated report of Alexander Hamilton, in 1790, that eminent statesman and financier, although then impressed with a persuasion that the government of the country might well leave the management of a national bank to "the keen, steady, and, as it were, magnetic sense of their own interest," existing among the private stockholders, yet holds the following remarkable and pregnant language: "If the paper of a bank is permitted to insinuate itself into all the revenues and receipts of a country; if it is even to be tolerated as the substitute for gold and silver, in all the transactions of business; it becomes, in either view, a *national concern of the first magnitude.* As such, *the ordinary rules of prudence* require that the GOVERNMENT should possess *the means of ascertaining,* WHENEVER IT THINKS FIT, *that so delicate a trust is executed with fidelity and care.* A RIGHT of this nature is not only desirable as it respects the Government, but it ought to be equally so to all those concerned in the institution, as an additional title to public and private confidence, and as *a thing which can only be formidable to practices that imply mismanagement.*"

In the letter addressed by Alexander James Dallas, the author of the existing bank, to the chairman of the committee on a national currency, in 1815, the sentiments of that truly distinguished and patriotic statesman are explicitly conveyed upon this very point. "Nor can it be doubted," he remarks, "that the department of the Government which is invested with the power of appointment to all the important offices of the state, is a proper department to exercise the power of appointment in relation to *a national trust of incalculable magnitude.* The national bank ought not to be regarded simply as a commercial bank. It will not operate on the funds of the stockholders alone, but much more on the funds of the nation. Its conduct, good or bad, will not affect the corporate credit and resources alone, but much more the credit and resources of the Government. In fine, it is not an institution created for the purposes of commerce and profit alone, but much more *for the purposes of national policy, as an auxiliary in the exercise of some of the highest powers of the Government.* Under such circumstances, *the public interests cannot be too cautiously guarded,* and the guards proposed can never be injurious to the commercial interests of the institution. The right to inspect the general accounts of the bank, may be employed to detect the *evils of a mal-administration,* but *an interior agency in the direction of its affairs will best serve to prevent them.*" This last sentence, extracted from the able document of Secretary Dallas, develops at a glance what had been the experience of the American Government and people, in the period which elapsed between the time of Alexander Hamilton and that immediately preceding the formation of the present bank. Hamilton conceived that "a right to inspect the general accounts of the bank," would enable Government "to detect the evils of a mal-administration," and their *detection* he thought sufficient. He was mistaken: at least so thought Congress and their constituents in 1815. Hence the inflexible spirit which prevailed at the organization of a new bank, in establishing "an interior agency in the direction of its affairs," by the appointment of public officers, through whom the evils of

a mal-administration might be carefully watched and prevented.

In the progress of legislation on the bank thus projected by Secretary Dallas, the character and purposes of the public direction were still more fully developed, and uniformly insisted on. When a leading opponent of the administration of Mr. Madison moved to strike out so much of the charter, then under consideration, as gave to the President and Senate the power of appointing five directors, he was resolutely and successfully met with the declartion and argument, "that it was *necessary* as well *to guard the public interest*, as *to secure a just administration of the affairs of the bank as regarded the public*, that a proportion of the direction should be appointed by the Government." "That the true policy in the creation of a bank, is to give it a double character; to combine in it the elements of public and private interest, but *to secure to the former a control over the latter*; for *the Government which creates this institution is responsible for its fulfilment of the great objects of its creation*, and it is wiser to use means of precaution, than to rest upon ultimate measures of severe correction." "The *interest of this bank should be made subservient to the interest of the public—of the people;* and hence he wished *some control in its direction*." They did not "want merely *a great money machine*, but *an institution of a national character*, and therefore could not consent to part with those features in the bill which gave *the Government a proper and necessary control over the bank*."

It is useless to extend these views. They were almost unanimously avowed, at the adoption of the charter, to be those on which public directors—selected and confirmed by the President and Senate, to represent the Government and people at the board—were deemed by the legislators whose votes created the institution, an absolute condition of their consent. The bank would never have had being, unless accompanied by public sentinels, to detect, expose, or prevent "the evils of mal-administration;" to act as checks upon the cupidity and corrupt ambition springing from "a keen and magnetic sense of self-interest;" to stand between the rights, and liberties, and morals of the community, and the encroachments of "a great money machine"—a power alike base in its modes of persuasion, and formidable in the mystery and extent of its operations.

And yet we are now told, with a hardihood which nothing but the pride of the purse can explain, that the public directors, thus devised for national purposes, thus designated by the highest national authority, thus invested as national officers with national trusts and responsibilities, have no other attributes or duties than the other directors; and that their remonstrances may be treated with scorn, proportionate to the *numerical ascendency* of the private representatives of the stockholders. In other words, public and national agents, to whom has been confided "a national trust of incalculable magnitude," who have been selected by the highest appointing power known to the American republic, must bring down the great principles on which they should act, and trim the enlarged and patriotic motives which ought to actuate representatives of the people, so as to square with the selfish purposes of mercenary pursuit, or the secret aspirations of an ambitious money conclave. Yes! The bank has the boldness to claim coequality with the nation; to assert and to exercise, as far as it can, the right of silencing and despising the legally constituted public functionaries of the nation; to disregard the organs and representatives of the people, and thus, in the fulness of money-pride and pretension, utterly to set at naught the people themselves.

A case parallel to ours has never yet been exhibited in this country. It is the case of a subordinate corporation, spurning at, and virtually discarding the agents of those by whom it was created; paying no sort of respect to the exalted public sources whence their appointment immediately emanates; denying the true nature of their trusts; and nullifying, by preconcert and pretence, the law of the land and its ministerial officers. Individually and personally this arrogant and unequalled proceeding, conducted under the semblances of official forms, cannot affect us; we are in fact relieved by it from many labors, irksome, painful, and unprofitable; made silent and useless by the force of a majority, we are freed from much responsibility and care. But to our constituents, to the American nation and people, the example is of vast, and we believe vital interest; and to them and for them, we feel it a duty to make the statement which we now submit to their assembled representatives. With them alone it remains to decide whether they will assert the supremacy of the law; support their public agents in the discharge of their duties; and confine within its proper sphere of subordination and real usefulness, an institution created, not for its own, but their benefit.

We now proceed to lay before Congress the history of those transactions on the part of the majority of the directors of the Bank of the United States, which are the foundation of the preceding remarks, and have called forth this statement.

On the 8th of January, 1833, having been appointed directors, by the President of the United States, three of us attended the first meeting of the board, two being residents of the city of Philadelphia. On the appointment of the standing committees, to whom the preparation and consideration of a great deal of the most important business is assigned, and who consist altogether of *thirteen* persons, neither of us was appointed, on any one committee—thus evincing, by the very earliest acts of the president of the board, as we could not fail to perceive, a determination to deprive us of the best means of information in regard to the nature of its proceedings.

This measure was followed, very shortly after, by another, to be ascribed only to the same cause. Being specially summoned, on the evening of the 29th of January, a long and elaborate report was submitted, by the committee on exchange, in answer to certain inquiries of the chairman of the Committee of Ways and Means of the House of Representatives. Nearly three weeks had been employed in its preparation—its reading occupied upwards of an hour—it embraced various important statements of facts—it exhibited views, some of which we considered partial if not erroneous, in regard to the conduct of the institution and the officers of the Treasury—and much of it was entirely new to us, as it must have been to several others of the directors who had been but a short time members of the board. After a single reading, a motion was made for its immediate transmission to Washington. We asked for time to examine it before it was thus adopted. We requested the delay even of a week, or a few days for this purpose. We knew that no public object required such unusual precipitation. Our motion was promptly rejected. The report was ordered to be transmitted, and a very large number of copies printed for immediate circulation.

We very soon found, however, that this system of conducting the most important affairs by committees, from which we were excluded, was not merely occasional. It was, as we discovered, regularly practised, in violation of the spirit, if not the letter of the charter, which declares that not less than seven directors shall be necessary to the transaction of business; and which intrusts it to a board properly chosen and appointed. We found also, that this plan, the effect of which was to transfer from the board to a few members so much power and authority, was extended even to the disposal of the funds of the stockholders—a branch of business which certainly ought not to be exercised, except by the full representation of their interests, required by the charter;

and which, otherwise conducted, has involved and must involve the institution in transactions from which it is difficult to withdraw without loss.

It was not long before we had a practical instance of the operation of this unwise, if not illegal deviation from the mode authorized and contemplated by the charter and by-laws. On the 22d of March, we observed from the books laid before the board, that a note of Messrs. Gales and Seaton remained due and unpaid, and that it had not been protested. The by-law of the bank declares in express terms, that "if a bill or note be not paid on the last day of grace, it shall be forthwith protested." The omission to comply with this law appeared to us particularly extraordinary, when we ascertained that the debt, of which this was part, had been allowed to increase within a few years from $11,000 to upwards of $80,000; that this large sum was principally on security of an unusual, and we believe doubtful, character—much of it on acceptances of drafts drawn by the same parties, on certain trustees holding funds received from Congress for an edition of State Papers—that even these funds were also partially appropriated as security for other objects, and that the acceptances, being in themselves conditional, the neglect of protest was rendered still more singular, both in relation to the security of the bank, and to the right of notice which was due to the persons who might be called on for the payment. It appeared too, at the same time, that the account in question then was, and since the month of November preceding had been, repeatedly overdrawn to a considerable amount. We thought it due to the whole board, that the reason on which such a deviation from the rules of the bank had been made, should be ascertained and recorded. On calling their attention to the facts, it was resolved on the motion of another director, and *without a dissenting voice*, that the account in question should be referred "to a special committee of seven, including the three resident Government directors;" thus admitting us, for the first time, into a participation of the business of the committees. After the unanimous adoption of this resolution, so just and proper in itself, it was with no small surprise that we heard, at the very next meeting of the board, three days after, and before the account in question had been looked at by the committee, a motion introduced and voted for by all present, except ourselves and the mover of the original resolution, by which it was altogether rescinded. Nor was this all. It appeared, by the books of the bank, that, while the special committee for investigating this account was actually in existence, the committee on exchange had themselves undertaken to renew the very note, the neglect to protest which had led to its appointment, and the only reason assigned was, an understanding previously made to that effect. Nor did the committee on exchange stop here. At the same time, although another by-law of the bank declares, in express terms, that "no person while he remains an overdrawer shall have a note or bill discounted"—they did discount for the same persons a further sum of $2,500, and this on security of the most unusual kind. It consisted of their order, on the Clerk of the House of Representatives, "for the amount which *would be due* to them, for the second part of volume sixth of the Register of Debates, say for five hundred copies, twenty-five hundred dollars, *when authorized by the House as heretofore.*" On this order, the Clerk declined putting any acceptance, *as the work had not been subscribed for*, though, as he said, "he did not doubt of its being ordered," but he stated that if the order was lodged with his paying clerk, he would pay the money, when due, *to the proper person.*" We remonstrated against loans made in so unusual a manner, but in vain. We tried to ascertain something of the actual value of the state paper fund, pledged as it already was, for other purposes, but there did not appear to be any documents from the Clerk of the House of Representatives, or from the trustees, which gave any thing like a definite statement of the amount which the bank could calculate upon receiving. We endeavored to induce the board to commence the reduction of so large a debt, and to obtain, at any rate, a partial payment from the funds received from Congress. All these efforts were, however, quite unavailing. When the notes were offered for renewal, we were repeatedly assured that the debt would be reduced, yet month after month passed away, and it still remained little if it all diminished.

On the 20th of September, six months after the adjournment of Congress, when, it was understood, they were to receive large sums of money for the works which they were printing, we observed that the books laid before the board showed that the account was actually increased since that time, and we offered the following resolution to effect at least a small and gradual reduction:

"*Resolved*, That a reduction of five per cent. be made on all their paper offered hereafter for renewal; and that the cashier so inform them; and that none be made without such reduction."

This resolution, notwithstanding the moderate and gradual reduction contemplated by it; notwithstanding the curtailment then making in the loans to the community in general; notwithstanding the expectations of a diminution in this account, repeatedly held out; and notwithstanding the usual character and uncertain value of the security for it—was rejected, even without consideration. We then requested, that at least such renewals as should be made by the committee on exchange, might be reduced to this small extent—this also was rejected. But the matter was not allowed to rest here. Instead of the notes being afterwards presented to the board for renewal, in the usual course of business, they have been, in repeated instances, submitted to the committee on exchange, and, according to the books laid before the board, they have been done by that committee, on days when the board was actually in session. Nay, more, it appeared, by the credit book, that a note of $7,500 was due on the 25th of September; on the day preceding, being a regular discount day of the board, we requested that, if offered for renewal, the note might be then submitted to the board. This was rejected; yet it appears by the same book, that on the same day, namely, the 24th of September, the note was renewed, we presume by the committee on exchange.

Shortly after the resolution referred to, placing us expressly on a committee, one of us was appointed on the committee on the offices, and another of us on that on the state of the bank. From that on exchange, by which the powers of the board have been, as we have seen, virtually assumed, we continued to be excluded. When the committees were last appointed, we were again removed from them all.

The committee on exchange, we observed, was appointed by the president alone, and it was evident that, organized as it was, and assuming the power it did, the directors became in a great degree useless, and the interests of the institution and the money of the stockholders, were so far placed beyond their control. Its formation, too, was in direct opposition to the by-laws, which provided that the committee having the business of exchange under its care, as well as that attending daily at the bank, "should be selected from the board in rotation"—a just arrangement, acted on until within a few years, and enabling all the directors from time to time to participate in the action on matters which they had all been selected to superintend. Being satisfied that this arrangement was altogether the proper one, both in regard to the safe disposal of the funds of the stockholders, and to the legitimate performance of their duties by the directors, we were desirous of restoring it in practice. We therefore offered the following resolutions:

"Whereas it is proper that the ordinary business of the board, should not be transacted by a smaller number of directors than that required by the charter, and the business of discounts can be conveniently transacted, as heretofore it has been at the meetings of the board—

"Therefore, resolved, That the duties of the committee on exchange shall not extend to the business of discounts—that the committee on exchange shall, after the expiration of the present month, consist of three directors residing in Philadelphia, to be selected, as prescribed by the existing by-laws, monthly, from the board, in rotation, and that the president and cashier shall be united with them." These resolutions were at once laid upon the table by a vote of the majority, and we could not obtain their adoption.

But this mode of appointment by the president alone, and this assumption of power by the committee on exchange, were not merely contrary to the spirit of the charter and the letter of the by-laws. In assuming to discount notes on days intervening between the meetings of the board, and not unfrequently on days when it did meet, the committee on exchange acted in direct opposition to two recorded decisions of the board, by the last of which, no longer since than in 1830, on an application from the office at Charleston to give these same powers to a committee, the inexpediency of doing so was declared in the most explicit terms. When the application was made, it was referred to the standing committee on the offices. They reported against it without hesitation, and on general principles, applicable to the whole institution. "The subject," they say, "of discounts by committees has frequently engaged the attention of the board, who have always felt and expressed great repugnance to such a practice, to which in fact much of the losses of the board may be ascribed. The committee on the offices still entertain that opinion, and they think that the better course to be pursued, in regard to the present suggestion, is that adopted on the 31st of October, 1823, on a similar application from the office at Boston. They accordingly recommend the adoption of the following resolution: "That the president be requested to communicate to the president of the office at Charleston, *the unwillingness of this board to adopt the plan of making discounts of notes by a committee, that being the proper business of the board organized as such;* but in order to give every proper facility to business, the board perceives no objection to more frequent and even daily meetings of the board, which could take place for a short time at a particular hour of every day." To this correct decision, the reasoning of which appears to us unanswerable, made nearly ten years ago, and deliberately reconsidered and renewed six years afterwards, we referred. We pointed it out still standing on the minutes, and we asked that its principles might be adhered to. All, however, was without effect. Finally, that the subject might be brought more fully to the consideration of the directors, we offered the following resolution:

"*Resolved,* That the cashier be instructed to lay before the board any resolution rescinding that passed on the 2d of February, 1830, which declares the inexpediency of discounts being done be committees; and any resolution altering the rule of the by-laws which directs the appointment of the committee attending at the bank, monthly in rotation, and which, as appears by the minutes, was complied with up to 1828." This resolution also was at once laid upon the table by a vote of the majority, and we could not obtain its adoption.

Our remonstrances, however, were not without effect. They led to a determination on the part of the majority to give same sanction to their course, by adopting new rules, and abolishing those long in existence. A new set of by-laws was prepared in accordance with the actual practice. They were submitted to the board in the month of April last. When they were under consideration, we requested "that the standing committees might be appointed from the board in rotation"—this was rejected, and the president was authorized himself to select the two of most importance, that on the offices and that on exchange. We then requested that the powers of the committee on exchange "might not be extended to the business of discounts"—this too was rejected. Desirous that if these powers were thus to be exercised by a committee, selected by the president, the other directors might at least be regularly informed of its proceedings, we then requested that they "should lay before the board, at every stated meeting, a statement of their proceedings, which should be read before the discounts of the day were settled"—this too was rejected. All these being refused, we requested, that among the business of the day, the board might have submitted and read to it, a "report of the *final* proceedings of the committee," since the previous stated meeting—this too was rejected. In a word, the system of late years acted upon, was formally sanctioned by a majority of the board. It is now a portion of its by-laws, as before it was of its practice.

In the month of April, we received a letter from the President of the United States, calling our attention to rumors which had come to him, relative to the proceedings of the board, and requiring us to give him such information in regard to them, as was within our knowledge as public directors. We were all of opinion that the course deliberately pursued by the majority, had already rendered our services as public agents nearly inefficient. In reply to his letter, therefore, we stated to him such circumstances as had been the subject of discussion and action by the board, and we suggested to him the propriety of an official investigation into its proceedings. We were convinced that such interposition had become necessary, if it was desirable that the officers of the government should any longer participate in, or be acquainted with the most important acts of the institution.

Strengthened by the changes in the by-laws, to which we have referred, the committee on exchange has continued to assume the most important powers of the board, and no control whatever can be exercised either to prevent or to remedy what they may choose to do. On the 16th of August, we perceived a striking instance of the extent of authority they assumed. We observed that, a week before, a single loan of no less than $100,000 was made by the committee, to one person, without any authority from the board—although it had been in session that very day—although the proposition for the loan must have been made before the meeting of the board, for it was submitted to the committee by its chairman immediately on the adjournment—and although the board had, on the same day, been obliged to refuse good mercantile paper. When we made inquiry, we ascertained that the loan was not in fact done for the person whose name was entered on the books, but for a bank of which he was a director, and on account of a large debt then due from it to the Bank of the United States, the regular payment of which was thus postponed. We cannot doubt that the board would have refused this proposal, had it been submitted to them; but, however that might have been, the assumption of such a power, exercised in such a manner, by the committee, is not to be sanctioned unless the other members of the board have become utterly useless.

Another instance was lately exhibited of the injustice arising from this unlimited and irresponsible power of the committee on exchange. The policy adopted by the board has caused curtailments in the loans to the community to a great extent. These ought at least to be general in their operation. Yet on a loan for a very large sum, secured on stock, being offered for renewal on the 8th of November, all reduction was refused on the ground that it had been originally made by the committee on exchange,

some years before, for an indefinite period, and that the faith of the bank was therefore pledged for its continuance. These resolutions, passed three years since, at a time when there was great abundance of money, "authorized the committee on exchange to loan large sums on approved collateral securities." Assuming, by virtue of these, a power which we believe the board never intended to confer, they have thus entered, it seems, into contracts which will extend to the termination of the charter, if not beyond it. These contracts, too, so far as we can learn, were not reduced to writing; in fact, the notes themselves were drawn at the usual short periods. It is now at least apparent that these proceedings were at variance with the true policy of the institution, and that they operate unequally on the community, whose interests ought to be impartially consulted.

Yet, however objectionable may be this disposal of funds and exercise of power, without the knowledge and assent of the board, it has not been limited to the committee on exchange. When, at the end of the month of July last, the dividend committee met, one of us, being a member of it, observed accidentally amidst the other accounts, that for the expenses of the institution. Among the charges were several, to a large amount, so stated as to make it impossible for him to understand the character of the expenditure, but he thought it such as to render it our duty to institute an inquiry, and, if necessary, to call the attention of the board to the subject. In this opinion we were strengthened by a request, received from the President of the United States, that we should "state to him all the information and knowledge in regard to these accounts which we might have acquired in the discharge of our duty as directors." We stated to the president of the bank our wish, as directors, to examine the accounts in question, and at his suggestion did so in the room of the cashier. We found the accounts kept in such a manner, that it was altogether impossible to ascertain from them the particulars of many large expenditures. The book in which they were entered was never, within our knowledge, exhibited to the board, and their nature was probably unknown to most, if not all, the directors. They embraced, especially under the head of stationary and printing, payments, the character of which did not appear in the account, but which, when examined, were found to be for very large disbursements to printers and publishers of newspapers. Nor was this all; there were charges to a large amount, stated to be for payments on orders of the president, and for these there were no vouchers but the orders themselves.

The authority on which these extraordinary expenditures were alleged to be made, was a resolution of the board, on the 30th of November, 1830, authorizing the president "to take such measures in regard to the circulation of the contents of an article on Banks and Currency, published in the American Quarterly Review, either in whole or in part, as he might deem most for the interest of the bank;" and another, on the 11th of March, 1831, authorizing him "to cause to be prepared and circulated such documents and papers as may communicate to the people information in regard to the nature and operations of the bank."

The existence of these resolutions had been unknown to us, and probably to many other members of the board; yet several thousand dollars *had been expended under them*, during the very six months just elapsed, *while we were members of the board, without our concurrence, or even the slightest knowledge on our part, that such expenditures were made.*

Having ascertained, as far as the manner of keeping this account enabled us to do, the extent to which these expenditures had been carried, we called the serious attention of the board to the subject, at the very next meeting. We stated to them the examination we had made, and the unexpected result that had arisen from it, limited as it was. However general the expressions of the resolutions might be, it never could have been contemplated by the directors, that such enormous and unusual expenditures should be made for an indefinite period; and, above all, that they should be made in such a manner as to preclude any knowledge on the part of the board of their real nature and extent, until long after they were incurred. Besides this, there was nothing, as we conceived, in the words of the resolutions, that justified the disbursements by the president of the bank, to the amount of about twenty thousand dollars, without exhibiting receipts and accounts thereof. Such a system was entirely unauthorized by the stockholders, and ought, we believed, to be immediately discontinued, by an express direction of the board, if it was conceived that it was allowed by the resolutions in question. However much it might destroy the rights of the directors, to confer upon a committee on exchange, selected by the president, the most important powers of the board, as we saw lately done by the alterations of the by-laws, it seemed to us infinitely more dangerous to the interests of the institution, thus to allow the president to expend its money for an indefinite time and unlimited amount, and in a manner which virtually excluded the board from any knowledge of the object, and the extent of the disbursements, if not altogether, certainly until long after they had been made. We believed, and still believe, that to permit such a system to pass unnoticed, would have been a gross dereliction from our duty as representative agents; if sustained, it ought at least to be sanctioned by the stockholders and the public; not to depend on the votes of a board of directors.

But it was not only the character of this expenditure to which we called the attention of the board. Its amount, when the avowed object was taken into consideration, was, as we believed, altogether excessive. The expenditure during the last six months of the year 1829, under the head of printing and stationary, had been only $3,765 94; in the first six months of 1830, it had been $7,131 27; and in the last six months of the same year $6,950 20; making a total, during the whole of that period, of $17,847 41, and an average expenditure, for each half year, of $5,949 13. The expenditures of the next two years, under the same head, appeared to be, during—

the first half year of 1831,	$29,979 92
the last half year of 1831,	13,224 87
the first half year of 1832,	12,134 16
the last half year of 1832,	26,543 72

making a total, during the whole of that period, of $81,882 67; and an average expenditure for each half year of $20,470 66.

It was impossible for us to imagine that such an enormous difference in expenditures, under a single head of the expenses of the institution, prolonged too throughout the years 1831 and 1832, could have been contemplated, or was to be justified by the resolutions passed in such vague terms, so long before. If they were, it was certainly time that disbursements so large and for purposes so unusual, should be brought more immediately before the board.

The next point to which we called the attention of our colleagues, was the entire impossibility that existed, of ascertaining with any certainty, and without great trouble, the real nature of the expenditures in question, either in regard to the persons to whom the money was ultimately paid, or the amount and nature of the work actually done. So far as regarded the money expended by the president, this was evidently the case, for we could discover no entries or vouchers in regard to it, except that it was expended on his order, under the resolutions referred to. But even where entries of particular payments did appear, in the book, they were so short and general as to afford no knowledge of those particulars. The vouchers, consisting of numerous bills and receipts, could

not be examined without difficulty. Some of the payments were evidently made to persons not engaged in printing or publishing. Among the publications, were "extras and editorial articles of newspapers," "speeches of members of Congress," "addresses to members of the State Legislatures," "remarks on the veto," and others, which were notoriously of a political character, and such as we believe neither the stockholders nor the directors, had they previously known it, would have desired or directed to be circulated at their expense. We, therefore, conceived it to be a matter of duty on the part of the board, both with regard to their own conduct, and to the wishes of their constituents, that the particulars of these expenditures should be so clearly exhibited, in the accounts of the bank, as to be susceptible of ready and full examination.

From the extensive authority we knew to be assumed, under these resolutions, we were disposed to believe that similar expenditures might have been made at the offices, and that these disbursements, under the head of stationary and printing, large as they were, might not be all that had been made; at any rate we believed the fact to be one that the board would at least be willing and even desirous to ascertain.

In conclusion, we urged on the board the propriety of rescinding resolutions, under which a power so indefinite and so susceptible of being carried beyond the intentions of those who granted it, was claimed and exercised. If ever right or justifiable, the publications had been now all made, and if the system was to be prolonged, it ought to be done by the open authority of the stockholders.

That our sentiments on these points might be fully known; that it might be seen we had explicitly called the attention of the board to them all; that it might appear to the stockholders and the public, that as soon as this system was discovered, we desired to have it exhibited to them in its full extent, and in the most accurate shape; and, that we might record our efforts to suppress it, we offered, on the same day, the 16th of August, the following statement and resolutions, so framing them as to obviate, we thought, every objection, and submit the matter, as it now stood, in the clearest light, for more careful investigation and more deliberate action.

"Whereas it appears, by the expense account of the bank for the years 1831 and 1832, that upwards of eighty thousand dollars were expended and charged under the head of stationary and printing, during that period; that a large proportion of this was paid to the proprietors of newspapers and periodical journals, and for the printing, distribution, and postage of immense numbers of newspapers and pamphlets; and that about twenty thousand dollars were expended, under the resolutions of 30th November, 1830, and 11th March, 1831 without any account of the manner in which, or the persons to whom the same were disbursed:

"And whereas it is expedient and proper, that the particulars of an expenditure so large and unusual, which can now be ascertained only by the examination of numerous bills and receipts, should be so stated as to be readily submitted to and examined by the board of directors and the stockholders:

"*Resolved*, That the cashier furnish to the board, at as early a day as possible, a full and particular statement of all these expenditures, designating the sums of money paid to each person, the quantity and names of the documents printed by him, and his charges for the distribution and postage of the same; together with as full a statement as may be, of the expenditures on orders, under the resolutions of 30th November, 1830, and 11th March, 1831.

"That he ascertain whether expenditures of the same character have been made at any of the offices, and if so, procure similar statements thereof, with the authority on which they were made.

"That the said resolutions be rescinded, and no further expenditures be made under the same."

Whatever sentiments might have been entertained as to the propriety of the resolutions of the 30th of November, 1830, and 11th of March, 1831—or of the expenditures made by virtue of them—or of the manner in which they were made—or of the mode in which the accounts and entries of them had been previously kept, it appeared to us, and still appears, that the resolutions directing a full statement of them to be prepared by the proper officer of the bank and an inquiry as to their extent, ought to have met with no opposition. We expected none, but we were disappointed. The same systematic determination already so often displayed, was still evinced. Several of the directors admitted their ignorance of the existence of the resolutions in question, as well as of the expenditures under them. More than half of the present directors were not so at the time they were passed. The propriety of the resolutions, or the power assumed under them, or the great excess of expenditure they had led to, or their expediency, or the necessity of their continuance, might have afforded some reason at least for deliberation. Even the request by us, as members of the board, for the statements mentioned in our resolutions, might have been sufficient ground that they should be furnished; or that the accounts should be examined; or that the subject itself should be taken into careful consideration. It was not so. Our resolutions were scarcely read, when the following substitute for them was proposed:

"*Resolved*, That the board have confidence in the wisdom and integrity of the president, and in the propriety of the resolutions of the 30th of November, 1830, and 11th of March, 1831, and entertain a full conviction of the necessity of a renewed attention to the object of those resolutions; and that the president be authorized and requested to continue his exertions for the promotion of that object."

We were scarcely prepared for a course like this. Not only was all investigation refused—not only was our request for a statement of the expenditures denied—but on the instant, without even calling for or looking at the account to which we referred—without examination and without delay, a settled purpose was thus exhibited to continue and increase the expenditures—to conduct them in the secret and irresponsible way heretofore adopted—and to preserve in the accounts the same obscurity which already existed. But the majority did not rest here. Our remonstrances against a system of proceeding, adopted under resolutions of the board, believed by us to be unwise and illegal, were encountered by a reference to the personal character and motives of the president of the institution, which had never been drawn into discussion. Our resolutions had not called them in question. We had demanded an investigation of the official transactions of a public institution, of which we were officers; we had remonstrated against them as unauthorized by the charter, and wrong in themselves; and we had endeavored to prevent their continuance. Was it an answer, to speak of the wisdom and integrity of its chief officer, to which we had not alluded?

Thus denied the statements we had asked for, in regard to the general expenditures referred to, we offered the following resolutions, limiting our request to those for which we could discover no vouchers whatever, and to any subsequent proceedings under the original resolutions of the board:

"*Resolved*, That while this board repose entire confidence in the integrity of the president, they respectfully request him to cause the particulars of the expenditures, made under the resolutions of the 30th of November, 1830, and 11th of March, 1831, to be so stated that the same may be readily submitted to and examined by the board of directors and the stockholders.

"*Resolved*, That the said resolutions be rescinded, and no further expenditures made under the same."

These, like our previous resolutions, were promptly rejected; the substitute was passed by the votes of all present, except ourselves and one other member of the board; the system was resolutely adhered to, in defiance of our remonstrances; a statement of the expenditures, prepared by the proper officer, and asked for by us, was deliberately refused; and we were left to gather what knowledge of them we could, from the partial and imperfect examination which, as directors, we were able to make.

After this course by the majority of the board, we had no hesitation as to our duty. We had brought the subject fully before them—it has been seen in what manner they treated it. We had required that full and exact statements relative to it should be prepared by their own officers, under their own express authority—it has been seen this was promptly denied. We determined at once to report to the President of the United States the result of what we had discovered, imperfect as the course of the board rendered our knowledge, and to advise him of the necessity there was of an investigation, by an agent duly authorized, into proceedings which, as public representatives, we held to be flagrantly wrong, and which we should have been faithless to our trusts, if we had consented to assist in concealing.

But it was not only in the improper disposal of the funds, or even in the unlimited authority given to the committee on exchange, that the systematic determination to conduct the affairs of the institution without admitting even a reasonable participation in them by the public directors was evinced. It has been exhibited on various, indeed, on all possible occasions. It was strikingly displayed when the important subject of commencing a gradual reduction in the business of the bank came before the board. In May, a resolution had been adopted, instructing a committee "to inquire into the expediency of making a gradual reduction in the accommodation paper of the bank, and to report to the board a scale on which such reduction should be made." We had been constantly looking for a report, in pursuance of these instructions, with such views as to the best mode of curtailing the business of the institution as the necessary inquiries of the committee would enable them to make; but, on the 13th of August, the following resolutions were presented by one of the directors, with a request that they might be immediately acted on:

"*Resolved*, That, for the present, and until the further order of the board, the amount of bills discounted shall not be increased at the bank and the several offices. That the bills of exchange purchased at the bank, and all the offices, except the five Western offices, shall not have more than ninety days to run. That the five Western offices be instructed to purchase no bills of exchange, except those payable in the Atlantic cities, not having more than ninety days to run; or those which may be received in payment of existing debts to the bank and the offices, and then not having more than four months to run."

We perceived at once, in this measure, the commencement of a system of reduction, in conducting which wisely and impartially, the welfare of the whole community was involved. No notice of these resolutions had been given, and, therefore, while we concurred, as we stated, in the propriety and expediency of reducing the business of the institution, we required that the plan should be carefully weighed, so as to bear equally on all parts of the country, and on all classes of debtors to the bank. We desired also to have the result of the views and inquiries of the committee already appointed. With these objects, we asked that the resolutions might be postponed for one week, or even until the next meeting, it being understood that the subject should be then definitively acted upon. Our request was refused. The resolutions were passed at once, and, as usual, by the vote of all present except one other director and ourselves. Believing that this measure was not only precipitate, but partial, and that it would lead to curtailments unequal and oppressive; and entertaining the opinion that a system might easily be formed, on a just basis, we offered the following resolution: "Whereas a resolution was adopted on the 7th of May last, instructing the committee on the state of the bank to report to the board a scale of reduction in the business of the institution, and no report has been made in pursuance thereof; and whereas a resolution, passed at the last meeting, which places certain restrictions on the business of the institution, confines the same to five of the Western offices—

"*Resolved*, That the commitee on the state of the bank be instructed to report to the board, at as early a day as possible, a system for the gradual reduction of the business of the institution throughout all sections of the country, having regard to the interests of the stockholders, the debtors of the bank, and the community in general."

This plan, which would have prevented an oppressive and partial system of curtailment, confined to particular portions of this country, and exerted at particular times; which would have given to the subject full and fair consideration; and which, above all, would have enabled every member of the board to exercise his deliberate judgment, was, as usual, rejected. Nor was this all. When we offered the resolution, temperately expressed as it is, the president himself asked the question of consideration upon it, though no motion to that effect had been made—a course never before adopted in the board, not sanctioned by the by-laws, and evidently introduced to curtail more effectually, if possible, the very limited interference in the affairs of the institution which was still allowed to the public directors. On this suggestion of the president, the majority refused even to consider our resolution, by the vote of all present except one director and ourselves. This plan was persisted in, and subsequently carried still further. A series of resolutions were adopted for reducing the business of the institution, and authority was given to the *committee on the offices, which is appointed by the president alone, to modify them in such manner as they should deem expedient*; and eventually that committee was authorized to direct such measures, for the general reduction of the business of the bank, as they should think best. We offered, as an amendment to the resolution giving to a committee this extraordinary power, a request that "they should *report to the board* such measures as they directed. *This request was rejected by the usual vote.* It is, of course, impossible for us to know by what principles of policy the committee have been governed. Its proceedings are secret, and we can only ascertain, at intervals, some of the results to which they lead. We attribute to them the excessive curtailment in the business of the institution which has lately been so sudden and oppressive, and which was not necessary either to the extent to which it has been carried, or in the manner in which it has been made to bear on the community. With these sentiments, and in the hope that the board itself might be induced, at a time like this, to interpose, and to exercise for the welfare of the community, some portion at least of that unlimited power it had intrusted to the committee, we lately offered the following resolutions:

"Whereas the pressure on the commercial community at this time, may be removed by a liberal spirit of accommodation on the part of the banks generally; and whereas the State banks complain that, in consequence of the balances being largely in favor of the Bank of the United States, they are unable to afford the necessary facilities to their customers without subjecting themselves to increased demands from this bank; and whereas it is believed

that, were the banks in this District to extend their loans twenty per cent. beyond the income, for a period of thirty days, it would relieve the money market, restore confidence, and have a salutary effect on the industry and enterprise of our citizens—Therefore,

"*Resolved*, That a committee of three be appointed, to confer with similar committees that may be appointed by the other banks, for the purpose of uniting in some arrangement to carry into effect the object of the foregoing preamble; and that the cashier be requested to send copies of the above to the presidents and directors of the other banks, with a request that their determination on the subject may be communicated as early as practicable."

These resolutions, the effect of which would have been to produce a concert of action among the banks, for the relief of the mercantile community at a period of difficulty, and to display, on the part of the Bank of the United States, a determination to afford it, which could not have been unsuccessful, the board refused even to consider; they were rejected in the usual summary manner, and the whole subject remains, as before, in the power of the committee on the offices.

It will thus be seen that, while the unlimited authority of the president to expend the funds of the bank had been deliberately confirmed, and while the committee on exchange, selected and appointed by him, had been officially permitted to discount notes and carry on the proper business of the board; now, in addition to all this, *the measures* of the institution, in the regulation of its vast business, at this most important crisis, *were intrusted to the committee on the offices, also selected and appointed by the president, accompanied by an explicit refusal to require them to report any of their acts to the board.*

It might be supposed that the systematic operations of the majority, pursued, as we have seen, for nine months, were now complete. Not so. Certain resolutions were adopted on the 1st of October, indicating the course of policy to be pursued, which appeared to us, in many respects, of a character that rendered it proper they should be transmitted to the Secretary of the Treasury. We accordingly requested from the president of the bank a copy of them for that purpose. This was not given to us, but we were informed that our request would be laid before the board, which was afterwards done. It was there referred to a committee, and, at a subsequent meeting, they reported a resolution refusing the request. Accompanying it were the reasons on which the refusal was founded, indicating a strong spirit of hostility to the Treasury Department, and a determination to refuse all information that could be avoided. This resolution was passed. Immediately after the adjournment of the board, and when most, if not all of the directors who had been at the meeting were still present, one of us requested to look at the report just read, having, from the single reading, an imperfect notion of its contents. This request was refused, unless previously sanctioned by a regular order of the board; and an effort was thus made to deprive us of any certain knowledge even of what took place at the meeting of the board, limited as this had now become.

We have thus endeavored to trace, as well as we can, the course of policy adopted by the bank towards the public directors. Excluded, as it is seen we have been and still are, not merely from any participation in the measures of the board, but even from the examination of its documents, we have been able only to state some of the prominent instances of unjustifiable infringement on our rights. A full and proper investigation would at once augment their number and display their impropriety in a light still more glaring; yet, as it is, we confidently appeal to the exposition we have made to sustain us in our assertion that, from the moment we took our seats at the board, a systematic policy has been pursued of so conducting the affairs of the institution as to exclude the directors appointed on the part of the United States from a participation in or knowledge of its most important transactions.

Nor was it in regard to the public directors alone that the management of this institution presented serious causes of objection. The whole system is one which is calculated to exclude the board of directors from a proper knowledge of its situation, of the conduct of its officers, and of its policy as a great financial and commercial institution. The plan of transacting much of the business in secret committees has already been referred to in many remarkable instances, but, so far as our limited experience on some of the committees has enabled us to judge, very many objects which ought to be submitted to the inspection and approbation of the directors never come even before the stending committees, much less before the board.

It is well known, as indeed must be the case, that the expenses of the bank are very great; they are extended to various objects; they embrace large disbursements to individuals; yet, during a year in which we have been seated at the board, we scarcely recollect a single instance where an account has been submitted for our inspection. The particulars of the aggregate expenditure *are never at any time laid before the board.* They are at most made up in an account which, at the end of six months, is submitted to the necessarily limited examination of the dividend committee, instead of being passed upon by the directors as they occur. However great may be the confidence which is to be placed in the officers of the institution, under whose care these expenditures are made, it is not to be doubted that the practice is injudicious which does not require the judgment of the board to be taken upon them before they are made, involving as they do very large sums, and applied as they may be to objects in regard to which the opinions of the directors may greatly vary. We are aware of no duty more imperative than this; and we do not think that either the variety and number of the disbursements, or the fidelity of the officers meking them, ought to authorize a deviation from it.

The correspondence that must pass between the bank and its offices cannot but be extensive and important. Letters are occasionally read from the presidents and cashiers of the branches, but they appear to be merely the reports which are made at stated periods. Those which are written from the bank, and which, of course, contain directions affecting its whole operations, are never submitted to the board either before or after they are sent. Indeed, it is notorious that the directors of the bank frequently hear of the operations of the distant offices, done, as is believed, under instructions emanating from it, through public rumors or information from those places before any is communicated to them at the board. It is not in the recollection of either of us that the instructions at any time given by the president to the offices, during the last year, have ever been submitted to the board.

The same remark may be made in regard to the foreign correspondence of the bank, which, judging from the large amount of funds the bank has occasionally abroad, and its numerous transactions there, we presume to be at least frequent and important. It very existence is scarcely known to us. On a specific call in March last, a few letters then lately received from the Messrs. Barings were laid before the board, and subsequently one or two from Messrs. Hottinguers, relative to the draft of the Secretary of the Treasury on the French Government, were read to us, but the great body of correspondence is never seen on the table or in the room where the board meets. Especially the letter-books containing the various instructions and orders from the institution, as given by the president, are never submitted for their inspection. If these documents even could be inspected by the public directors, without an express order of the board, or without

liability to refusal from the officer having them in charge, it must yet be evident that such an inspection is altogether limited in its nature, and insufficient to keep the directors properly informed of the proceedings of the institution: that can only be done by the acts of the president and committees, which are transacted in their name or on their behalf, being regularly submitted to them—being presented for their inspection at their stated meetings, and not by keeping them suppressed, to be produced only on repeated and specific demands.

In a word, from the moment we took our seats at the board, we have seen that the *real business of the institution is not there transacted*, nor its real authority there exercised; that there exists, beyond its control, a power that can be and is exerted, promptly, secretly, and efficiently, from one end of the country to the other; that the just instrumentality of the directors has been curtailed, either by the mode of operation gradually introduced, or by positive regulations from time to time prescribed; and that their duties must be inadequately performed if they are willing to remain passive instruments under such a system, instead of asserting their rights as representative agents charged with an important and highly responsible trust. We have not now to learn in what light such an assertion of independence is regarded; the facts we have stated evince it clearly enough. We have not now to learn the manner in which it will be met; the statement of the majority that calls forth this memorial shows the means that will be resorted to. These may deter others from the exercise of an independent judgment and honest opposition; they do not and they shall not deter us from the conscientious performance of that duty which, by the charter, we were appointed to perform.

But what is this elaborate statement of the majority? We confidently declare that it removes no real objection, controverts no important charge.

Is it denied that we have been excluded from the standing committees? Is it denied that two of those committees are selected by the president alone? Is it denied that they have assumed the functions of the directors? Is it denied that they have done this contrary to the recorded opinion of the board? Is it denied that they have loaned money contrary to the by-laws, and on doubtful and unusual security? Is it denied that they have done it on days and under circumstances when the board might have acted had it been brought before them? Is it denied that they are not required to report in writing their proceedings to the board? Is it denied that the by-laws have been altered? Is it denied that the president is allowed unlimited control over the funds of the bank, by virtue of the resolutions of November, 1830, and March, 1831? Is it denied that those resolutions exist? Is it denied that large sums of money were expended under them? Is it denied that the resolution of the 16th of August, 1833, passed against our solemn remonstrances, continued and extended this power? Is it denied that there are no proper vouchers for a large portion of this expenditure? Is it denied that much of the chief business of the bank is done through committees selected by the president? Is it denied that unusual modes have been adopted, to suppress our interference, and deprive us of a just knowledge of the affairs of the institution? We have read this statement of the majority, and we look in vain for a denial of any one of these things. They cannot be denied. They are proved by the records of the institution; to which we confidently appeal to sustain us in the assertions we have made.

How have we been met? By impairing our rights—misrepresenting our statements—giving partial views of facts.

The first step is to deny the right of the President of the United States to require, and consequently of the public directors to make, a report of the proceedings of the board. If we regard truly the nature of our office—if we have properly understood the intentions of the American people in creating it—then should we have been wanting in every principle of duty had we neglected to report to the Chief Executive Magistrate, the proceedings we have detailed. Silenced by an organized majority; our rights invaded; as we believe, the public welfare endangered; our efforts to prevent it, and our remonstrances against it, equally disregarded—it would doubtless have been more consistent with the views of the majority that we should have continued to sit tamely by, and give them, by our silence, indirectly, that aid they could not obtain openly by our votes. But this would have been on our parts a desertion of our trust—an unpardonable neglect to perform the very duty expected of the public directors, in such an emergency, by those by whom the charter of the bank was made. We are content to submit our conduct in this to the judgment of the American people.

We are next accused of want of candor, in not informing the majority that we had received a letter from the President of the United States, and that we should report proceedings to him—we are accused of secretly obtaining the information thus communicated. Shall we ask with what propriety such a charge is made by those whose whole course, as we have exhibited it, has been marked by want of candor and of openness of conduct? Whose by-laws have been altered to shroud their proceedings in greater secrecy, and conceal them effectually from us? Who permit large sums of the public money and the money of the stockholders to be expended without the production of vouchers? Whose whole system is one authorizing the exercise of irresponsible power? Who have refused, when called on, to render any particular statements of accounts notoriously vague; to furnish for the Secretary of the Treasury, copies of documents affecting the interests of the whole community; to admit the public directors into their secret councils; or to allow them an opportunity to examine, before publication, their own elaborated statements? From such a majority, such a charge comes indeed with little propriety. But we are aware of no right or claim they had to the letters addressed to the public directors by the President of the United States, or to the reports made to him; nor did we feel ourselves at liberty to communicate the one, or called on to submit the other. It would, indeed, be just ground of censure against us, if, under the authority of one, or in executing the other, we had obtained information without ample notice to the majority, or communicated it without abundant opportunity allowed them to know, investigate, and repel it for themselves. If they do not venture directly to assert that we did so, they attempt to insinuate it. On our parts, we explicitly deny it. We deny the truth of any allegation, direct or indirect, which implies a want of candor, or any neglect of full information given to them of the nature and extent of our objections, or any want of the most ample opportunity previously afforded to examine, and, had it been possible, refute the charges we made. This we deny, and we appeal to the records of the bank to sustain us in the denial. Our examination of the expense account was made after a formal demand by us all, in person, to the president. We demanded it as our right as directors of the bank. We proposed to make it in the public room of the directors. We did it in that of the cashier, at the suggestion of the President. After we had done so, we brought the whole subject formally before the board. Our resolutions on the minutes, show how fully we introduced it to their notice. We asked of them, by those resolutions, an explanation by their own officer, and under their own direction. We did this *on the 16th August*. The majority felt itself sufficiently acquainted with the whole matter, to express a deliberate opinion upon it by

their resolution confirming all they had done. They *refused* to have a statement prepared under their own direction, although we informed them of the vagueness of the account. In a word, it was evident, they would neither aid in changing the system against which we remonstrated, nor in affording a true account of what had been done under it. It was *on the 19th August*, after we had thus given them ample notice, after they had refused to aid us, give us their own statement, or enter into any investigation themselves, that we reported to the President of the United States, all that they would allow us to ascertain. Yet with all these circumstances, well known to them, *they carefully suppress in their statement every allusion to their existence*, and endeavor to convey the idea that they never knew of our charges, or had an opportunity to repel them, until they read them in the newspapers. Nay, more. With these facts palpably brought to their notice, with these dates apparent on their own records, and on our report, they have the boldness to assert or insinuate that our investigations were secretly made, and to pretend that in these disclosures they were taken by surprise. In what language shall we characterize misrepresentation so gross as this? Have we stated any thing of which they had not ample notice? We defy the production of it. Have they been put on trial, as they say, without any chances of knowing or answering the charges made against them? Their own minutes prove exactly the reverse. But no! We are not, none can be at a loss to divine the reasons for such an accusation against us in the face of evidence so glaring. It is to remove the real ground of charge. It is to evade, by an unfounded attack on the public directors, an explanation of their own unwarranted proceedings. It is to insinuate, that as members of the board we improperly discharged our duty; when the true cause of dissatisfaction is, that we have examined, censured, and exposed abuses they had hoped to conceal. But is this all? What is their own course in this very matter, selected as the object of attack on us? They deny to directors of the board, the right to examine its documents and report its proceedings to the President of the United States; and yet it is notorious, that the editors of newspapers under their patronage, obtain and publish, with no permission of the board known to us, facts in regard to its proceedings, accounts, and expenditures, which they admit have been obtained by "information in and out of the bank," and by an inspection of the documents it possesses. The irresponsible publication, by an editor of a newspaper, of facts favorable to the views of the majority, containing statements obtained from the bank without the knowledge of the public directors, involves no impropriety; the responsible report of those directors to the President of the United States, of proceedings and expenditures which have been brought distinctly to the notice of the board, is an act highly culpable, uncandid, and unjust!

But the majority have felt this was not sufficient to excuse themselves before the American people. They knew that if the facts we stated were true, public opinion was not thus to be led away from them. They have therefore attempted to point out errors in the report we have made. If the errors they thus pretend to discover did in reality exist, they are in themselves either the result of their own course, or they are too trifling to mislead those whom it is desirable to turn aside from the real facts we have ventured to expose.

What are the errors it is asserted we have made, in our report to the President of the United States? The first is, that we have stated that the expenditures, under the head of printing and stationary, were *discovered* by us, when, in fact, as the majority would have it believed, they had never been concealed; when they were regularly entered in the books of the bank. We repeat that they were discovered by us; that they were unknown to us; that they were incurred to the extent of several thousand dollars, while we were actually members of the board, and never stated to it when they were incurred; that several directors besides ourselves expressed their ignorance of them, though they had held their seats seven months, until we then made them known; that the book in which they were entered was never laid before the board; that the accounts themselves were never exhibited at the board, either before, when, or after they were paid. Is it an answer to all this to say, that they were recorded in a book of whose existence we were ignorant; that these proceedings and expenditures were neither secret nor concealed, because, on inquiry, we could find an account in which they were entered? If we could demand from the majority a candid avowal, we should not hesitate to ask several of them, whether these expenditures were not, in truth, utterly unknown to them, until brought to their notice by us?

We are next accused of error in stating that these accounts were vaguely kept, and that the particulars are not sufficiently stated; and it is alleged that the entries contain the names of the persons to whom payments were made, the amounts, and references to the vouchers. Is this the manner in which such accounts should be kept? We stated to the board, and we repeat now, that it is not. We stated to the board then, that they ought to exhibit the sums of money paid to each person, the quantity and names of the documents printed by him, the charges for the distribution and postage of the same. We repeat it now, and we assert, that without this, the accounts are not kept as they should be. But we go further, we deny that the account does exhibit the names of all the persons to whom the payments were really made. It is notorious, that, in some instances, the persons receiving the money, and whose names are entered on the book, are not persons engaged in printing or publishing. Can they, then, properly be called the persons to whom these payments were made? It is admitted, too, that a large sum was expended under the orders of the president; *where are the entries of the persons to whom the payments under them were made?* Have we, then, been guilty of error, in stating that these accounts were not kept in such a manner, as to be "readily submitted to, and examined by the board of directors, and the stockholders?" Which is the real object of just censure? the "spirit in which our inquiry was made," or the deceptive and disingenuous manner in which it is replied to?

We are accused of error in conveying the impression, that these expenditures were confined exclusively to the bank at Philadelphia, because we have said, that "all expenditures of this kind, introduced into the expense account, and discovered by us, we found to be, *so far as regards the institution in this city*, embraced under the head of stationary and printing." It is asserted that these expenditures embraced payments made to persons residing elsewhere. Does our language convey a contrary impression? We are sure it does not. We have never doubted the fact that payments have been made by the institution here, for these purposes, to persons in various parts of the United States. We declare, that the only account we saw, was for such expenditures as are charged in the expense account of the institution here; and that if others are charged at the offices, we have been able to discover no account of them. Whether there are such we cannot assert, since we have no means here of ascertaining, and since our resolution to inquire was promptly rejected.

We are accused, not merely of error, but of *misrepresentation*, in not stating more minutely, that the head of stationary and printing embraced other payments than those for printing the documents to which we have referred—for not giving copies of all the bills and receipts which we saw—for making the remark generally, that

"a large proportion" of eighty thousand dollars was paid to the proprietors of newspapers and periodical journals, and for the printing, distribution, and postage, of immense numbers of pamphlets and newspapers. We scarcely know in what terms to repel the disingenuousness of this charge. To whom was the statement, now complained of as being too general, first made by us? To the board itself. Why was it made to them? For the very purpose of having it explained; of having the details stated more fully, by its own officer. The statement was accompanied with that very request. It was made on the very ground that the books did not enable us to be more minute. There is no single remark of ours, which conveys the impression that the *whole* of the expenditures under this head were, or were by us supposed to be, for the purposes we complained of; but the reverse. The expense account, we assert, does not now, as it exists, enable any person to ascertain how much was expended for these objects, and what for the more legitimate objects referred to by the majority. That it might be so amended as to exhibit this, was the very cause of our demand. It is refused, and by thus refusing we are unable to ascertain and to state the very particulars which we are now censured for not exhibiting; nay, which we are charged with misrepresenting. Can it be doubted after this, that the determination to maintain the obscurity of this account, had in view the very intention of charging us with incorrectness in not stating it more fully? We deny that we were called on, as directors, to make copies of all these vouchers; we stated to the board that they were numerous, and we asked that their officer should make a full statement of them. But has the correctness of one of them, as we have referred to it, been contradicted? Not one. Have the majority fairly and fully exhibited them when they are called on, and have it in their power? They do not think it expedient to do so. What is their course when we complain that these improper expenditures are not properly stated on their books? When we refer to them as made during *six successive half years? They take a single half year*, in which there happens to be a considerable disbursement for new bank notes, exhibit the items of expenditure for this half year, but say nothing of the particulars of the rest. There is no assertion on our part that the *whole* of these disbursements, during the half year they select, were for printing pamphlets and similar productions; but the reverse. There is no denial directly or indirectly that a "proportion" of it was for other objects; this is admitted. But we declared the account *did not fully exhibit the particulars of each;* and this declaration they do not venture to deny. We have given the average semi-annual expenditure under this head, for all payments—proper and improper as we consider them—from the 1st of July, 1829, to the 1st of January, 1831, it is $5,949 13. We have given the average semi-annual expenditure from the 1st of January, 1831, to the 1st of January, 1833, it is $20,470 66. Will it be pretended that the real cause, the "large proportion," of this difference, is other than the disbursements to which we object? If so, let it be shown, not by selecting one half year, but by a statement of *the whole account*, not as it is *now* explained and made out, but as it appears in the expense account, as it was when examined by us. Let the particulars of the disbursements made by the president for which there were no vouchers, be stated. We have looked through the whole of this exposition by the majority, *we do not find that they deny this remarkable fact;* we do not find that they attempt to explain or justify it; we do not find that they give an account of the manner in which or the persons to whom the sums of money were paid; all is left as it was, uncontradicted, unexplained, uncertain, and vague; and yet we are censured for referring to these payments in general terms. We gave the particulars of this account as fully as we were able; the majority refused to have them stated with proper fullness; they still neglect to do so, though it is in their power. Is it to be tolerated that we are to be charged with want of minuteness in our statement, after conduct such as this? We assert again, and *we challenge the production of the account to disprove our assertion*, that during the years 1831 and 1832, upwards of eighty-thousand dollars were expended under the head of stationary and printing; that "a large proportion" of this was paid to the propietors of newspapers, periodical journals, and printers; that about twenty thousand dollars of it were expended on orders of the president, without any entry of the manner in which, or the persons to whom, the same were disbursed; and we assert, that the account, as kept when exhibited to us, did not show the particulars of these disbursements, so as to enable us to state from it those to which we refer, more fully than we have done.

The next charge against us—at variance with the last, since it censures us for *too much* minuteness—is, that we have given the name of a director, by whom some of the publications were ordered, "with a design to connect his agency with some political purpose." We were not aware that the propriety of the disbursement was increased, or its character changed, if stated to he done under the order of a single director, instead of under that of the president. Neither do we see any inference, that our statement was made for "political effect," unless this arises from the fact of the order being given, for such a purpose, by the director in question, if he is one of those whom the majority emphatically characterize as "called politicians." Had we omitted it, doubtless we should have been censured for an incorrect statement. We gave it as it appears in the voucher, because it did so appear there, and because it led to the belief, that such payments were made, not merely on the authority of the president, but also of an individual director, unauthorized by the board. If that belief was erroneous, it would have been corrected at the time, had not the majority, on the 16th of August, refused to have the account examined, and the particulars stated, as we then explicitly demanded.

These are the charges against us, these the errors said to exist in the report of the public directors on the 19th of August, to the President of the United States. We submit that report; so attacked, and so disproved, to the judgment of any tribunal. We confidently assert that there is in it no statement or charge that can be invalidated; that every one is substantiated by the books and records of the bank; that no real error has been pointed out in this elaborate attack upon us by the majority. It is by suppressing facts well known to them, by misrepresenting what we say, by drawing unjust and unfair inferences from particular sentences, by selecting insulated phrases, and by exhibiting partial statements; by making unfounded insinuations, and by unworthily impeaching our motives, that they endeavor to controvert that which they are unable to refute. *When the expense account shall be truly and fully exhibited to any tribunal, if it shall be found that the charges we have stated, do not exist; when the minutes of the board shall be laid open, if it shall be found the resolutions we have quoted are not recorded; we shall acknowledge that we have been guilty of injustice and of error, but not till then.*

We have thus endeavored to present to the assembled representatives of the American people, a view of the course which, for nearly a year, the majority in a large moneyed institution, established by them for their benefit, have thought proper to pursue towards those who have been placed there, to guard their interests and to watch and control their conduct. We have briefly stated the systematic series of actions by which they have endeavored to deprive them of every right that was conferred on

them by the charter, and to assume to themselves a secret, irresponsible, and unlimited power. We have shown, that in endeavoring to vindicate or to save themselves, they have resorted to accusations against us which they are unable to sustain, and left unanswered charges which, were they not true, it would be easy to repel. We have been urged to this from no desire to enter into the list, with an adversary sustained by all the resources which boundless wealth affords. We have been driven to it by the nature and manner of the attack, made upon us, in the document on which the intended memorial to Congress is founded.

We doubt not that agents more efficient than ourselves might have been found, but, placed in the responsible position in which we have been, it has been our inflexible determination faithfully to perform its duties, at every hazard, and to appeal from the judgments of those who are interested in opposing and censuring us, to those whose rights have been committed to our guardianship and care. The people of the United States have endeavored to form a political structure of government, which should be as little liable as possible to the corruptions exhibted throughout the histories of other nations. Freedom and law are alike endangered by every approach to venality, every exercise of secret, mysterious, and irresponsible power. It is the paramount duty of every citizen, and the sacred obligation of every American functionary, to shield all the institutions connected with the Government, from the treacherous and insidious advances of moneyed influence. The sphere in which he is called to act may be humble; the power he can thus exercise may be limited; but the solemn obligation is not less binding, nor will faithful performance of the duty be less an object of honorable pride.

All which is respectfully submitted by

H. D. GILPIN,
JOHN T. SULLIVAN,
PETER WAGER,
HUGH M'ELDERRY.

Philadelphia, *December* 9, 1833.

ANNUAL TREASURY REPORT.

Treasury Department, *December* 17, 1833.

Sir: I have the honor to transmit a report prepared in obedience to the "Act supplementary to the act to establish the Treasury Department."

I have the honor to be, with great respect, your obedient servant,

R. B. TANEY, *Secretary of the Treasury.*

Hon. Andrew Stevenson,
Speaker of the House of Representatives, U. S.

REPORT ON THE FINANCES.

In obediance to the directions of the "Act supplementary to the act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following report:

I. of the public revenue and expenditures.

The receipts into the Treasury from all sources during the year 1831, were			$28,526,820 82
The expenditures for the same year, including payments on account of the public debt, were			$30,038,446 12
The balance in the Treasury on the 1st of January, 1832, was			$4,502,914 45
The receipts from all sources during the year 1832, were			31,865,561 16
Viz.			
Customs		$28,465,237 24	
Lands (statement D)		2,623,381 03	
Dividends on bank stock (E)		490,000 00	
Sales of stock in the Bank of the United States (E)		169,000 00	
Incidental receipts (E)		117,942 89	
Making, with the balance, an aggregate of			36,368,475 61
The expenditures of the same year were (F)			34,356,698 06
Viz.			
Civil list, foreign intercourse, and miscellaneous		$4,577,141 45	
Military service, including fortifications, ordnance, Indian affairs, pensions, arming the militia, and internal improvements		7,982,877 03	
Naval service, including the gradual improvement of the navy		3,956,370 29	
Public debt		17,840,309 29	
Leaving a balance in the Treasury on the 1st of January, 1833, of			2,011,777 55
The receipts into the Treasury during the first three quarters of the present year are estimated at		$24,355,317 95	
Viz.			
Customs	$21,256,089 77		
Lands (G)	2,219,957 35		
Dividends on bank stocks (H)	474,985 00		
Sales of stock in the Bank of United States (H)	91,000 00		
Third instalment under the convention with Denmark (H)	221,315 17		
Incidental receipts (H)	91,970 66		
The receipts of the fourth quarter are estimated at		$7,675,000 00	
Making the total estimated receipts of the year			32,030,317 95
And, with the balance on the 1st of January, 1833, forming an aggregate of			34,042,095 50

The expenditures for the first three quarters of the present year are estimated at (I) Viz.		18,248,388 15	
Civil list, foreign intercourse, & miscellaneous, including $667,160 87 duties refunded under the 3d section of the act of 2d March, 1833, and $661,160 95, awards under the convention with Denmark	4,951,462 84		
Military service, including fortifications, ordnance, Indian affairs, pensions, arming militia, and internal improvements	9,950,349 29		
Naval service, including the gradual improvement of the navy	3,076,051 39		
Public debt	270,524 63		
The expenditures for the fourth quarter, including $2,301,716 36, on account of the public debt, are estimated, on data furnished by the respective Departments, at		$6,409,916 45	
Making the total estimated expenditures of the year			$24,658,304 60
And leaving in the Treasury on the 1st January, 1834, an estimated balance of			$9,383,790 90

This balance, however, includes the funds estimated at $1,400,000, heretofore reported by this Department as not effective.

The appropriations remaining unsatisfied at the close of the year are estimated at $5,964,571 23, but of this amount it is estimated by the proper Departments—

1. That the sum of $5,190,287 62 only will be required for the objects for which they were appropriated.

2. That the sum of $449,424 04 will not be required, and may, therefore, be considered as an excess of appropriation, and is proposed to be applied, without being reappropriated, in aid of the service of the year 1834, as will more fully appear when the estimates of the appropriations for that year are presented.

3. That the sum of $324,859 57 will be carried to the surplus fund, either because these moneys will not be required for, or can no longer be applied to them.

II. OF THE PUBLIC DEBT.

Notice has been given of the intended reimbursement of the residue of the exchanged 4½ per cent. stock, on the 1st of May, 1834. This stock was subject to redemption at the pleasure of the United States, at any time after the 31st of December, 1833, upon six months' public notice of such intended reimbursement. The time at which the notice was given, does not enable the United States to insist on reimbursing it so as to stop the interest before the 1st of May, 1834. A small portion of it was, however, purchased for the United States in the months of September and October, by an agent employed for that purpose; and on the same day that notice was given of the intended reimbursement, on the 1st of May next, an offer was made to the holders, by public advertisement, to pay them the whole amount of the principal, with interest to the day of payment, upon their making the proper transfers of the certificates. Many of the holders have already accepted this offer, and portions of it continue almost daily to be presented for payment. It is believed that the greater part, if not the whole of this stock, will be redeemed by the end of the present year. Under these circumstances, it seemed proper to charge the whole amount to the expenditures of the present year, rather than to the next. The account is accordingly stated on this principle, and the interest calculated to the 1st of January; and if a part of it should not come in by that time, it will make no material difference in the result, because the interest saved upon the stock paid before the end of the year, will, it is expected, be equal, or nearly so, to the amount of interest which may afterwards accrue on the portion remaining unpaid. And if the whole of it should be reimbursed within the present year, the interest saved will increase the estimated balance in the Treasury in but a very small degree. In the following account, therefore, the whole of this stock is charged to the expenditure of 1833, and the interest on it calculated as if it would be reimbursed on the 1st of January, 1834.

The disbursements on account of the public debt, during the year 1833, will amount, as has already been shown, to		$2,572,240 99
Of which there will have been applied to the payment of the principal	$2,240,950 80	
And to interest	331,290 19	

The stocks which will have been redeemed by the application of this sum, during the year, are as follows:

The residue of the exchanged 4½ per cent. stock, issued under the act of the 26th May, 1824		$2,227,363 98
A part of the 5 per cent. stock issued under the act of 3d March, 1821		13,036 01
Also, certain portions of the old registered debt which have been presented for payment, being part of the unfunded debt of the Revolution		50 81
And Treasury notes		500 00
On the 1st January next, it is estimated the public debt will be reduced to (K) Viz.		4,760,082 08
1. The funded debt consisting of the residue of the 5 per cent. stock issued under the act of 3d March, 1821, and redeemable after 1st January, 1835	$4,722,260 29	
2. The unfunded debt, amounting to	37,821 79	
Consisting of the registered debt, being claims registered prior to the year 1798, for services and supplies during the revolutionary war	27,476 70	
Treasury notes issued during the late war	6,025 00	
And Mississippi stock	4,320 09	

These three last sums, composing the unfunded debt, are payable on the presentation of certificates.

III. OF THE ESTIMATES OF THE PUBLIC REVENUE, AND EXPENDITURES FOR THE YEAR 1834.

According to the best judgment the Department is able to form on the subject, the receipts into the Treasury from all

sources, during the year 1834, may be estimated at - - - -		$18,500,000 00
Viz.		
Customs - - -	$15,000,000	
Public lands - -	3,000,000	
Bank dividends, and miscellaneous receipts of all kinds - - -	500,000	
To which add the balance estimated to be in the Treasury on the 1st January, 1834, after deducting the unavailable funds - - - - -		7,983,790 90
Making, together, the sum of - -		$26,483,790 90
The expenditures for the year 1834, including the reimbursement of the whole of the public debt, are estimated at -		$23,501,994 85
Viz.		
Civil, foreign intercourse, and miscellaneous -	$2,800,897 33	
Military service, including fortifications, ordnance, Indian affairs, pensions, arming militia, and internal improvements	8,654,942 25	
Revolutionary pensions under act of June, 1832, including the arrearages from 4th March, 1831, in cases in which payment has not been made	3,000,000 00	
Naval service, including the gradual improvement of the navy -	4,051,073 19	
Public debt:		
Principal $4,760,082 08		
Interest 235,000 00		
	4,995,082 08	
Which will leave in the Treasury on 31st Dec. 1834, a balance estimated at -		$2,981,796 05

The value of the exports of the year ending on the 30th September last, is estimated at $90,663,403, of which $70,642,030 were of domestic, and 20,021,373 of foreign articles, showing an increase in the exports of domestic produce, of $7,504,560 over the exports of the same character for the year ending 30th September, 1832, and and a diminution in foreign articles of $4,018,100. The value of the imports for the year ending on the 30th September last, is estimated at $109,000,000, being greater by the sum of $8,000,000, than the imports for the year ending 30th September, 1832. Of the imports for the year ending the 30th of September last, it is estimated that $34,000,000 were in articles free from duty.

It will be seen from the foregoing statement of the receipts of the present year, that they very much exceed the amount at which they were estimated in the last annual report. The excess has been derived chiefly from customs, which are estimated to produce more than $28,000,000. The large recepts of this year have been principally occasioned by the act of July 14, 1832, which abolished the system of long credits on revenue bonds, and required the duties on woollen goods to be paid in cash, and on other articles in three and six months. The new regulations took effect on the 4th of March last; and the cash duties and shortened credits have brought into the Treasury during the present year, a large amount of revenue which, under the former system of credits, would not have been payable until 1834, and would have formed a part of the receipts of that year. The income of 1833 has, therefore, had the advantage of the new system, as well as the former one; and the receipts are much greater than they would have been under either of them, according to the established rate of duties.

The expenditures for the present year have also been unusually large, and are estimated at $22,086,063 61, exclusive of the expenditure on account of the public debt.

The appropriations for the year were heavy, and exceeded, by $3,000,000, the appropriations for the year 1832; and the balances of unexpended appropriations at the close of that year have been, for the most part, applied, during the present one, to the various objects authorized by law, and therefore enter into the account of its expenditures. Several items of appropriation, however, for the present year, cannot be considered as forming a part of the ordinary expenditures of the Government. Without enumerating all objects of this description, it may be sufficient to mention some which have contributed materially to enhance the amount actually expended. The duties refunded at the Treasury under the law of the last session, and the awards under the convention with Denmark, are included in this account; and the expenses occasioned by the Indian aggressions in 1832, have been, for the most part, paid in this year. These three items amount to nearly two millions of dollars. But when this sum is deducted from the whole annual expenditure, it shows that more than twenty millions of dollars have been expended, during the present year, for the various other objects authorized by law, exclusive of the amount set apart for the reimbursement of the four and a half per cent. stock. The pensions for life granted under the acts of 1818 and 1832, to the officers and soldiers of the Revolution, have increased considerably the annual expenditure. More than four millions of dollars have been already paid, on that account, during the present year. There is, indeed, no item in the list of appropriations which our citizens generally more cheerfully contribute to pay, than the one last mentioned; but, in the order of nature, it must be annually decreasing; and in the estimates of the coming year, those payable under the act of June, 1832, are set down at three millions of dollars. The different sums above mentioned, therefore, show six millions of dollars paid for purposes which cannot be considered as entering into the ordinary and regular expenses of the Government, and form no rule by which its future annual expenditure ought to be estimated.

The receipts of 1834 must be very much below those of the present year. A large portion of the receipts from customs, as already stated, has been derived from the importations of previous years. But, from the change in the system of credit, only a small part of the duties accruing in this year will go into the receipts of the next; and the diminished rate of duties which take effect on the first of January next on some of the most productive articles, and the entire exemption of others, will contribute still more to reduce the receipts of the coming year, as compared with the present.

In estimating the receipts from customs for the year 1834 at fifteen millions of dollars, I have assumed that the imports of that year will nearly equal those of 1832. This estimate is higher than the average of the last five or six years, but it is believed to be a safe one; for although the importations of each of the two last years were unusually large, yet the imports of the present one have gone still higher, and the general state of our commerce and the situation of the country, justify the belief that there will be no serious diminution in the coming year. The condition of the mercantile classes does not indicate any excess of importation; indeed, the short credits and cash duties will be found to contribute greatly to prevent overtrading in that respect. Moreover, many articles in common use are admitted free from duty. This will produce an increased ability in the community to buy those which pay duty and consequently a greater consump-

tion. There appears, therefore, to be no reason to apprehend any serious diminution in the importations of 1834, and it will be safe to estimate its receipts by the standard above mentioned. Yet any material excess beyond that estimate cannot, I think, be counted on. The produce of the public lands can hardly fall short of the sum at which it has been stated, and will, perhaps, exceed it.

In this view of the receipts of 1834, the income of the year will about equal the estimated expenditure; and, with the aid of the balance in the Treasury on the 1st of January next, it will be sufficient for all the wants of the Government, including the amount necessary to pay off the residue of the national debt. It must, however, be observed that, in addition to the appropriations now asked for, there will be an unexpended balance of former appropriations amounting to the sum of $5,190,287 62, which will probably be required, in the course of the ensuing year, for the objects for which it has been appropriated. And if the entire amount of appropriations proposed in the estimates for 1834 were also to be required within the year, there would not be money enough in the Treasury to meet them, after satisfying the balances above stated, and paying off the public debt. But the experience of former years shows that a portion of the appropriations may always be expected to remain unexpended at the end of the year; and the average of these unexpended balances for the last four years is about $5,300,000. In estimating the balance in the Treasury at the close of 1834, I have therefore assumed that a portion of the estimates of expenditures, herewith submitted, will not be used during the year; and that balances of appropriations, equal to the amount at the close of the present year, will in like manner remain in the Treasury at the end of the year 1834, and go into the expenses of the succeeding year; and it is not necessary to raise money for the public use sooner than it will probably be needed. But the balance stated at the end of 1834 is not to be considered as a clear surplus. It will still be chargeable with the amount of appropriations estimated to remain unexpended at that time.

From this state of the finances, and of the proposed appropriations, it is evident that a reduction of the revenue cannot at this time be made without injury to the public service. Under the act of the last session, the receipts of 1835 will be less than those of 1834, as a further reduction in the rate of duties will take effect on the 1st of January, 1835; and if the appropriations should be kept up to the amount authorized for the present year, the charge upon the Treasury in 1835 would be more than it could probably meet. But the debt will then have been entirely paid; and if a guarded rule of appropriation is at once commenced, there will be no difficulty in bringing down the expenditure without injury to the public service.

If the revenue is not to be reduced more than the existing laws provide for, there seems to be no sufficient reason to open at this time the vexed question of the tariff. The manner in which duties are now apportioned on different articles, would be liable to insuperable objections if it were to be considered as a settled and permanent system. But the law is temporary, on the face of it, and was intended as a compromise between conflicting interests; and unless the revenue to arise under it should hereafter be more productive than is anticipated, it will be necessary, in two years from this time, to impose duties on articles that are now free, in order to meet the current expenses of the Government. There would seem, therefore, to be no advantage in agitating the question at the present moment. Yet some modification of the existing laws will be necessary, in order to carry into effect the intentions of the Legislature, and to guard against attempts to evade its provisions, without in any degree affecting its principles.

It is, however, respectfully recommended that the appropriations for 1834 should be regulated by a proper regard to economy. Heretofore, the receipts to be expected could be ascertained with some degree of certainty, because they were principally derived from the imports of previous years; and the bonds taken for the duties on such imports showed the amount of receipts which might safely be counted on. But, under the new system of cash duties and short credits, each year must mainly depend for its income on its own imports. And as commerce is always more or less liable to fluctuations, the public interest requires that there should be at all times in the Treasury a sufficient sum to provide for unforeseen contingencies, and to guard against disappointment in the estimated receipts. The calculations on the income of a succeeding year are necessarily more uncertain under the present system than under the former one of long credits. And if the anticipation of the receipts of 1834 and 1835 should be fully realized, there will not be more than ought to be provided in the estimated scale of expenditures. At the last session of Congress, the appropriations exceeded twenty-one million five hundred thousand dollars, being nearly three million five hundred thousand dollars above the estimates presented at the beginning of the session. A similar amount of expenditure, authorized at the present session, might render it necessary to provide additional revenue earlier than is now contemplated.

It is understood to be conceded on all hands that a tariff for protection merely is to be finally abandoned, and that the revenue is to be reduced to the necessary wants of the Government. Various causes have contributed to enlarge the proposed expenditures for 1834, as will be seen by the particular estimates from the different Departments. But it is believed that all the objects for which this Government was established can be effectually attained at much less annual expense hereafter; and the harmony and mutual good feeling of this extensive country will be best secured and perpetuated by rigidly confining the operations of the General Government to its appropriate sphere. If this is done, and its expenditures are regulated by a strict economy, the burdens it imposes will scarcely be felt by our citizens, while its blessings are inestimable.

As the public debt will soon be extinguished, it is proper that the books and papers which belong to the various loan offices, should be transmitted to the seat of Government, and placed among the archives of the nation. It is believed that the outstanding debt can be purchased on favorable terms, in the course of the ensuing year, and that it can be most conveniently purchased at the Treasury. It appears, therefore, desirable that provision should be made by law for immediately transmitting to this Department all the books and papers relating to the national debt. The money can readily be remitted to the public creditor, without charge to him or to the Government, and he can be paid at any place where he may wish to receive it.

The act of March 3, 1817, abolished the office of commissioner of loans, and transferred the duties to the Bank of the United States. The money necessary to pay the public creditors has, from time to time, been advanced to the bank by the Treasury; and it appears that large sums have remained for a considerable time in the bank, without being applied to the purposes for which they were intended. The amount has been reduced within a few months past. But the statement from the Register's office, herewith presented, (marked L,) will show that $773,111 98 still remained in their hands on the first of October last. A portion of this sum, as appears by the paper referred to, was advanced some years ago; and there is no reason why this money should continue in the hands of the bank, where it is useless to the Government

as well as to the creditor. The delay in the payment has probably, in some instances, been caused by the death of the party entitled, and the ignorance of his representatives as to his claim on the United States. The situation of these outstanding claims renders it still more necessary that the books and papers relating to the public debt should be forthwith transmitted to this Department, where the proper inquiries could be made as to the cause of the delay, and measures taken to ascertain who is entitled to receive the money. As the amount is justly due from the United States to some one, and may belong to persons who are ignorant of their rights, justice seems to require that the Government should take measures to apprize them of their claims, and of the readiness of the United States to discharge them.

The destruction of the building occupied by the Treasury Department has occasioned the loss of some valuable papers. But it is believed that none have been destroyed that can materially affect the public interest. It will become necessary to provide another building, and the loss already sustained in the documents and records of this office shows the propriety of erecting it upon a different plan from the former one, and of placing the archives of the Government in a situation less exposed to danger. The inconveniences which are felt from the present situation of the offices connected with this Department, as well as the more exposed condition of the papers, induce me to invite the early attention of Congress to this subject.

The report from the Commissioner of the General Land Office is herewith presented, showing the condition of that branch of the public service, and containing suggestions for its improvement.

All which is respectfully submitted.

R. B. TANEY,
Secretary of the Treasury.

Treasury Department, *December* 17, 1833.

REPORT
FROM THE SECRETARY OF THE TREASURY.

Treasury Department, *Dec'r* 30, 1833.

To the Hon. Martin Van Buren,
Vice Pres. of the U. S, and Pres. of the Senate:

Sir: In obedience to the resolution of the Senate of the 19th day of the present month, directing the Secretary of the Treasury "to communicate to the Senate a copy of the entire letter addressed by Mr. Crawford, when Secretary of the Treasury, under date the 13th February, 1817, to the president of the Mechanics' Bank of New York, an extract from which is recited in his report to Congress of the 3d December, 1833; and copies of the other correspondence of Mr. Crawford with the banks about that period, to passages in which the Secretary alludes in the same report:"

And "that the Secretary be directed to communicate to the Senate a copy of the correspondence between the agent appointed during the last summer, to inquire upon what terms the State banks would undertake to perform the services to the Government which had been performed by the Bank of the United States and the said banks; a copy of the report made, if one was made, by the said agent to the Secretary or to the Executive, the name of the agent, his compensation, and in virtue of what law he was appointed:"

Also, "that the Secretary communicate to the Senate the monthly statements of the affairs of the Bank of the United States for the current year, which have not been heretofore communicated:"

And, also, "the entire correspondence between the Secretary of the Treasury and the president of the Bank of the United States for the first half of the year one thousand eight hundred and nineteen:"

I have the honor to state,

1. That the entire letter of Mr. Crawford to the president of the Mechanics' Bank of New York, dated February 13, 1817, was heretofore communicated to the House of Representatives by Mr. Crawford, when he was the Secretary of the Treasury, and is now to be found among the official printed documents of Congress. The other letters about the same period of time, to which I referred in my report as indicating the same opinion, are, in like manner, among the printed documents of Congress, and were communicated by him to the Senate or the House of Representatives in his reports of February 14, 1822, February 25, 1823, and March 22, 1824: the first and last mentioned reports were made to the House of Representatives, the other to the Senate. As these communications are of such recent date, and the occasion which gave rise to them too memorable to be forgotten, I supposed it to be unnecessary in my former report to give either a full copy of the letter from which the extract was made, or copies of the other letters referred to, since they were already in the possession of Congress, and could be examined more conveniently in the printed documents than in a manuscript copy.

Indeed, if I had sent copies to Congress, they must have been taken from their own printed public documents. The Senate are already informed that the late Treasury building was destroyed by fire in the month of March last, before I came into office. In the official report which the then Secretary of the Treasury shortly afterwards made to the President concerning the destruction of the building, he stated that the correspondence of the Department, with the exception of that relating to revolutionary claims, and to applications under the insolvent laws; and "with the exception, also, of two record books, containing letters to banks, and two containing communications to Congress, was lost." This report was made public at the time, and I therefore supposed that the fact of the destruction of the correspondence of the Department, with the exception above mentioned, was so well known, that it was needless to advert to it. No part of the correspondence of Mr. Crawford with the banks now remains in this Department prior to the 1st of October, 1819. The loss is, however, immaterial so far as regards the inquiry proposed by the resolution of the Senate, because the letters of Mr. Crawford which relate to this subject are preserved, in a form equally authentic, in the printed documents before mentioned. The letter from which the extract was copied in my former report, was communicated to the House of Representatives by Mr. Crawford, with his report of March 22, 1824, and is to be found in the printed documents of the House of Representatives, session first of the eighteenth Congress, No. 140, pages 17 and 18. It was from this printed copy that the extract was taken; and to that document I must beg leave to refer the Senate.

The other letters to which I referred, as indicating the same opinion, being also among the printed documents of Congress, I must, I presume, consider the directions contained in the resolution of the Senate as a call upon me to specify the passages on which I relied. I proceed, therefore, to point out the letters which show that Mr. Crawford entertained the opinion I ascribed to him.

In order to place the matter in its true light, and enable the Senate more conveniently to apply the passages to which I alluded, it is proper that I should restate here the opinion referred to. The passage in my report, to which the resolution of the Senate refers, is in the following words:

"Assuming this to be the true construction of the charter to the bank, it must be the duty of the Secretary of the Treasury to withdraw the deposites of the public money from that institution whenever the change would, in

any degree, promote the public interest. It is not necessary that the deposites should be unsafe in order to justify the removal. The authority to remove is not limited to such a contingency. The bank may be perfectly solvent, and prepared to meet promptly all demands upon it; it may have been faithful in the performance of its duties; and yet the public interest may require the deposites to be withdrawn: and as that cannot be done without the action of this Department, the Secretary of the Treasury would betray the trust confided to him, if he did not cause the deposites to be made elsewhere, whenever the change would advance the public interests or convenience. The safety of the deposites, the ability of the bank to meet its engagements, its fidelity in the performance of its obligations, are only a part of the considerations by which his judgment must be guided. The general interest and convenience of the people must regulate his conduct."

This principle was distinctly asserted by Mr. Crawford, when he was the Secretary of the Treasury, soon after the bank obtained its charter. In a postscript to his letter to the president of the Mechanics' Bank of New York, dated February 13, 1817, he says: "The Secretary of the Treasury will always be disposed to support the credit of the State banks, and will invariably direct transfers from the deposites of the public money, in aid of their legitimate exertions to maintain their credit. But as the proposition of the Bank of the United States excludes the idea of pressure on its part, no measure of that nature appears to be necessary at this time." Other passages in the correspondence of Mr. Crawford with the banks, about the period above mentioned, might be referred to, equally indicating the same opinion; and at that day no doubt seems to have been entertained of the power or of the duty of the Secretary in relation to this subject. It does not appear to have been then even suggested that the right of removal depended on the solvency of the bank, or the safety of the public money committed to its custody.—On the contrary, in the passage above quoted, the superior safety of the State banks is by no means regarded as necessary to give him the right to make the transfer to them; for he declares that he will give the deposites to the State banks on account of their weakness, and to protect them from the Bank of the United States, if, by means of its superior strength, it sought to oppress them. Nor can any distinction be taken between the transfer of a part, and the transfer of the whole sum remaining on deposite. The language of the charter recognises no such distinction, and the principle asserted by Mr. Crawford would have led him to the removal of the whole amount of the public money to the State banks, if a pressure on the part of the Bank of the United States had rendered such a measure necessary in order to support the State banks in their legitimate exertions to maintain their credit.

I have transcribed the whole passage, in order that there may be no mistake about the *principle* which I stated that Mr. Crawford had "distinctly asserted." It is simply this: that, in exercising the power of removal, reserved by the charter to the Secretary of the Treasury, "the safety of the deposites, the ability of the bank to meet its engagements, its fidelity in the performance of its obligations, are only a part of the considerations by which his judgment must be guided. The general interest and convenience of the people must regulate his conduct." In other words, that it is his duty to remove them from the bank whenever the general interest and convenience of the people of the United States shall require it.

This being the principle which I have said that Mr. Crawford distinctly asserted, I quoted the passage from his letter of February 13, 1817, contained in my report, in order to prove it. I now proceed to show that other passages in his correspondence with the banks, about the period above mentioned, equally indicate the same opinion.

In the body of the letter above referred to, in speaking of the propositions he had made to the State banks to induce them to resume specie payments, he says:

"The right to transfer the deposites, with a view *to equalize the benefits resulting from them among the banking community, as the situation of the several banks might require*, was expressly reserved."

The report of Mr. Crawford to the Senate, of the 25th of February, 1823, hereinbefore mentioned, is in the fifteenth volume of the Senate reports, second session of the seventeenth Congress, document No. 40. Many of his letters to banks were communicated to the Senate with that report, and are to be found in that document. Among them is the circular to the State banks, alluded to in the above extract, dated December 20, 1816, [page 43 of the document.]

In the same volume, and a part of the same report, (page 47,) there is another circular letter from Mr. Crawford to the banks in the States of Pennsylvania, Delaware, and Maryland, in which the public moneys were deposited, notifying them that the Bank of the United States was authorized to receive from them the public money which had been deposited with them. This letter is dated January 28, 1817. In this letter he says:

"The deep interest which that institution [the Bank of the United States] must feel for the paper system, and its intimate connexion with the Government, are considered sufficient guarantees for the intelligent and disinterested manner in which this operation will be effected, independent of the power of the Treasury Department to control its proceedings at any moment, by changing the deposites to the State banks."

Again: in his letter of July 31, 1820, to the president of the Bank of Darien, communicated to the House of Representatives in his report of March 22, 1824, printed document No. 140, session first, eighteenth Congress, page 377 of the document, he expresses his opinion of the power of the Secretary of the Treasury in the following words:

"The Bank of the United States has, by its charter, a right to the public deposites. The Secretary of the Treasury has, indeed, the right of directing the public money to be deposited in the State institutions; but then he is bound to communicate immediately to Congress the grounds upon which such direction may be given. This restriction was doubtless intended to prevent the exercise of the power capriciously."

If it should be suggested that the letters of 1816 and 1817, above mentioned, relate to the resumption of specie payments, yet the opinion he expresses in the letter of 1820, to the president of the Bank of Darien, cannot be considered as in any way connected with that particular event. Besides, the powers he claimed and exercised over the deposites in order to produce the resumption of specie payments, was claimed and exercised under the power reserved to him by the charter to the Bank of the United States, and not by virtue of any other law or resolution. For in his report to the Senate and House of Representatives, of December 10, 1817, (printed document No. 9, session first, fifteenth Congress,) stating what he had done in relation to the change of deposites, and to induce the State banks to resume specie payments, and stating also various deposites which he had made for that purpose in different banks in this District, he begins his report by reciting the provisions of the sixteenth section of the charter of the Bank of the United States, and the power thereby reserved to him of changing the deposites of the public money; and it will be found, on examining this report, that he does not refer for his authority to any law or resolution except the clause of the charter above stated.

Indeed, it is impossible that he could have looked to any subsequent law or resolution as the source of his authority; for, if the power he asserted was not reserved to the Secretary of the Treasury by the charter, to the full extent to which he claimed and exercised it, it could not

have been given by a subsequent law or resolution without violating the agreement which Congress had made with the stockholders. It cannot be supposed that Congress intended to disregard the pledge they had given in the act incorporating the bank, by enlarging the power of the Secretary over the deposites beyond the limits prescribed in the charter. Mr. Crawford certainly did not understand them to have done so; and, in his report, he refers for his authority to the power reserved in the charter itself.

Again: In the latter end of 1818, and the winter and spring of 1819, difficulties arose in the Western country between the Bank of the United States and the State banks, which produced much embarrassment. The correspondence of Mr. Crawford with various State banks, about this time, was communicated by him to Congress in the different reports hereinbefore mentioned; and it appears, from this correspondence, that deposites of public money, to a large amount, were made in State banks in places where the Bank of the United States had established branches. It would extend this communication to an unreasonable length if I were to give extracts from all the different letters directing these deposites to be made, and indicating thereby the opinion I have attributed to him; it is moreover unnecessary, because the letters are already among the printed documents, and the opinion of Mr. Crawford as to his power is sufficiently shown by his letter to the committee of the House of Representatives of February 24, 1823, (18th Congress, 1st session, document No. 139, page 32 of the document.) In this letter, he mentions difficulties which had arisen between the Bank of the United States and the State banks in the Western country, and the evils which had arisen from the course determined on by the former, and that some of the Western banks had stopped payment; and, after stating that, in consequence of this condition of things, he had made deposites in various State banks, three of which, it appears, were in places where the Bank of the United States had established branches, he proceeds in the following paragraph to explain why he had not reported his proceedings to Congress, in language which evidently shows that he made the arrangements with the three banks above mentioned by virtue of the authority reserved in the charter, and that he did not attempt to derive it from any other source.

"The arrangements made with the Farmers and Mechanics' Bank of Cincinnati, the Bank of Chilicothe, and the branch of the Bank of Kentucky, at Louisville, where offices of the Bank of the United States had been established, by which the public moneys collected at the land offices in the vicinity of those banks were deposited in them, were not communicated to Congress at the next session after their date, from mere inadvertence to the provision of the charter to which the resolution refers. They were, however, matters of general notoriety, not only in the Western States, but in the other parts of the Union. Omissions of this nature have frequently occurred in the Departments, and it is presumed will occur hereafter, with officers the most attentive. The notoriety, however, which attended these arrangements with the banks, it is presumed, will satisfy the committee that there was neither a wish nor intention to withhold from Congress the fact of such deposites, and the reason upon which the measure was founded."

The letter of Mr. Crawford, of March 5, 1819, contains the agreement proposed to be made with the Farmers and Mechanics' Bank of Cincinnati; and it appears by that letter that the sum of $100,000 of the public money was to remain on deposite in the bank during the continuance of the arrangement, the benefits of which deposite were intended as a compensation for the services it was required to perform. This letter is in document No. 66, 1st session, 17th Congress, pages 37 and 38; and by his letter of April 30, 1819, page 41 of the same document, it appears that all the moneys received at the land office alluded to in the letter, including specie and notes of the Bank of the United States and its branches, were proposed to be deposited in the State bank above named.

About the same period, that is, in the latter part of 1818, and the winter and spring of 1819, Mr. Crawford also made various deposites in the banks of the District of Columbia. The principle upon which he acted in making them, is stated by himself in his report to the Senate of February 25, 1823, 2d session, 17th Congress, document No. 40. In page 7 of this report, his words are—

"During this general pressure, the banks in this District, which, upon the establishment of the office of discount and deposite in the city, had not taken advantage of that event to reduce their circulation, by contracting their discounts, were pressed by continual and increasing demands for specie from the Eastward, and by the return of their notes upon them from the western parts of Virginia, where certain banks chartered by that State had commenced, or were preparing to commence, business. Pressed thus on both sides, their means of meeting the demands made upon them, and of preserving their credit, were believed to be insufficient. In this critical situation, several of them applied personally by their directors to the Department to ascertain whether, in case of great emergency, they would receive any support. Considering the crisis as highly important to the nation, and believing that a failure of one or more of those banks would produce a general run upon all, of a different nature from that which was then pressing upon them, assurances were given that a reasonable support might be relied upon."

"In consequence of this assurance, deposites were, from time to time, made in the Union Bank of Alexandria, the Mechanics' Bank, and the Franklin Bank of the same place; in the Union and Central Banks of Georgetown, in the Bank of Washington, and in the Patriotic Bank."

And, after stating in the same report that two of the banks had stopped payment, and mentioning a deposite in the Bank of Columbia, he proceeds, in page 8, to set forth very clearly what, in his judgment, was the "principle and practice of the Treasury" in relation to the deposites of the public money. His language is as follows:

"These are all the transactions with the banks which are believed to be within the intent or terms of the resolution, except certain transactions with the banks in this District in the early part of the year 1817, which were specifically reported to the two Houses of Congress on the 10th of December, 1817, and printed among the public documents of that session. In that report it is stated that a deposite of $75,000 had been made in the Farmers and Mechanics' Bank of Georgetown to sustain it in its operations immediately after resuming specie payments. The principle and practice of the Treasury in sustaining the credit of banks disposed to act correctly, was, in this communication, frankly disclosed to Congress, when not the slightest symptom of dissatisfaction was manifested, or the right or propriety of the practice called, directly or indirectly, into question."

After such an explicit statement of the "principle and practice of the Treasury" by Mr. Crawford, there can, I think, be no room for doubt about his opinions. He gave a broader construction to the power reserved to the Secretary of the Treasury over the public deposites than I have done; and, acting upon the principle that I have ascribed to him, "that his conduct was to be regulated by the public interest and convenience," he held it lawful to give deposites of public money to local banks in a time of general pressure, for the purpose of enabling them to support their credit. I have not, in my report, nor in my practice, carried the doctrine so far. I have caused the

deposites to be made in State banks upon the principles and for the reasons which I have already laid before Congress; and I have transferred money, in some instances, from the Bank of the United States to the selected banks, in order to enable them to defend the community against the unwarrantable attempts of the Bank of the United States to produce a state of general embarrassment and distress.

Having thus shown the opinion of Mr. Crawford to have been as I stated it, I might perhaps here stop; but, under the circumstances in which this call has been made upon me, it is due to myself to prove that the power I have claimed for the Secretary of the Treasury, under the charter, was recognised by other high authority shortly after the bank was established, and has been more recently asserted by another head of this Department.

It will be remembered that an investigation into the conduct of the Bank of the United States was made by a committee of the House of Representatives during the second session of the fifteenth Congress. The committee, in their report presented on the 16th of January, 1819, (document No. 92, page 16,) express their opinion of the power of the Secretary of the Treasury in the following clear and decisive language:

"In closing this report of a most laborious investigation, the committee observe that, whatever difference of opinion can exist among them as to the results and inferences to be drawn from the facts stated, they unanimously concur in giving to the preceding statements of facts and abstracts of documents their sanction. They have not recommended the adoption of any immediate measures to correct the many evils and mischiefs they have depicted, excepting that of the bill before mentioned, because, by the provisions of the charter, the Secretary of the Treasury has full power to apply a prompt and adequate remedy whenever the situation of the bank shall require it. And if, after the stockholders have become acquainted with the mismanagement of the institution, they shall adopt no means to prevent its continuance, or the directors themselves shall persist in a course of conduct requiring correction, the committee cannot entertain a doubt that the salutary power lodged in the Treasury Department will be exerted, as occasion may require, and with reference to the best interests of the United States."

Indeed, the power of the Secretary of the Treasury in relation to this subject does not seem, until lately, to have been questioned; for it was asserted in terms equally strong and emphatic by Mr. Ingham in his letter to Mr. Biddle, of October 5, 1829. This letter is in the printed documents of the House of Representatives, No. 460, 1st session, 22d Congress. The passage of the letter to which I allude is in page 460 of this document. After commenting on some objections which Mr. Biddle had made as to the manner in which Mr. Ingham had spoken of the action of the Government on the bank, and explaining what he meant by the phrase, Mr. Ingham proceeds to state his opinion of the Executive authority in relation to the bank, in the following words:

"Had, however, this word [the word Government] been used in a more humble sense, importing the executive officers of the administration, as even their action upon the bank is, in expressed cases, not merely permissive, but necessary, I might reasonably have anticipated any construction other than that which would provoke jealousy or excite alarm. The administration is empowered to *act* upon the bank in various ways; in the appointment or removal of five of the directors; in the withdrawing of the public deposites; in the exaction of weekly statements, and the inspection of its general accounts; and in all the modes incident to the management of the pecuniary collections and disbursements of the Government. That these opportunities of action might be perverted and abused, is conceivable; but, subjected to the principle on which we early and cordially agreed, they become causes of security and benefit; and, before I dismiss this branch of the subject, I take the occasion to say, if it should ever appear, to the satisfaction of the Secretary of the Treasury, that the bank used its pecuniary power for the purposes of injustice and oppression, he would be faithless to his trust if he hesitated to lessen its capacity for such injury, by withdrawing from its vaults the public deposites. That such a power exists, is not more certain than that it may be exerted for such a purpose; and the only qualification of it, viz. that the reasons for its exercise shall be reported to Congress, necessarily implies the right and the duty to admonish against, and inquire into, the acts that might lead to such a consequence."

Thus, from the creation of the bank down to the year 1829, there appears to have been no doubt of the power of the Secretary of the Treasury to remove the deposites whenever the public interest or convenience should require it. And if the bank is found to be using its power "for the purposes of injustice and oppression," the Secretary of the Treasury would, in the language of Mr. Ingham, "be faithless to his trust if he hesitated to lessen its capacity for such an injury, by withdrawing from its vaults the public deposites."

2. I have the honor to transmit, herewith, a copy of the correspondence between the agent appointed during the last summer to inquire upon what terms the State banks would undertake to perform the services to the Government which had been performed by the Bank of the United States and the said banks; also, a copy of the report made by the said agent to the Secretary of the Treasury; also, a copy of the appointment and instructions under which the said agent acted, and a statement of his compensation. The appointment of the agent was made before I came into office. It has been the usage and practice of the Department to employ its agents in analogous cases, when the duties assigned to the Treasury Department, and the public interests, were believed to require it, and I presume that such a practice is justified by law; yet I must respectfully suggest that it is not in my power to state to the Senate the grounds on which my predecessor supposed himself authorized to make an appointment, further than may appear by his official acts and declarations.

3. The monthly statements called for by the third resolution are herewith transmitted. I send the originals, because the mass of papers called for is so great that there is not time to prepare the copies without delaying this report longer than may suit the wishes of the Senate.

4. I am unable to furnish any part of the correspondence between the Secretary of the Treasury and the president of the Bank of the United States for the first half of the year 1819; it was destroyed by the fire when the Treasury building was consumed.

All which is respectfully submitted.

R. B. TANEY,
Secretary of the Treasury.

MESSAGE FROM THE PRESIDENT,

Relative to the refusal, by the Bank of the United States, to deliver certain books, funds, &c. relating to the payment of certain pensioners of the United States to the order of the Executive.

To the Senate and House of Representatives:

I deem it my duty to communicate to Congress the recent conduct of the Bank of the United States in refusing to deliver the books, papers, and funds in its possession, relating to the execution of the act of Congress of June 7, 1832, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of

the Revolution." The correspondence reported by the Secretary of War, and herewith transmitted, will show the grounds assumed by the bank to justify its refusal to make the transfer directed by the War Department. It does not profess to claim the privilege of this agency as a right secured to it by contract, nor as a benefit conferred by the Government, but as a burden from which it is willing to be relieved. It places its refusal upon the extraordinary ground that the corporation has a right to sit in judgment upon the legality of the acts of the constituted authorities in a matter in which the stockholders are admitted to have no interest; and it impedes and defeats, as far as its power will permit, the execution of a measure of the administration, because the opinion of the corporation upon the construction of an act of Congress differs from that of the proper officers of the United States.

The claim of this corporation thus to usurp the functions of the judicial power, and to prescribe to the Executive department the manner in which it shall execute the trust confided to it by law, is without example in the history of our country. If the acts of the public servants, who are responsible to the people for the manner in which they execute their duty, may thus be checked and controlled by an irresponsible money corporation, then, indeed, the whole frame of our Government is changed, and we have established a power in the Bank of the United States above what we derive from the people.

It will be seen, from the accompanying statement marked A, that, according to the latest accounts received at the War Department, the Bank of the United States and its branches have in their possession near half a million of the public money, received by them under the law of 1832, which they have not yet accounted for, and which they refuse to pay over to the proper agents for the use of those persons for whose benefit it was withdrawn from the Treasury. It is to be regretted that this attempt, on the part of the bank, to guide and direct the Executive upon the construction and execution of an act of Congress, should have been put forward, and insisted on, in a case where the immediate sufferers from their conduct will be the surviving veterans of the revolutionary war: for this evil falls exclusively upon the gallant defenders of their country, and delays and embarrasses the payment of the debt which the gratitude of the nation has awarded to them, and which, in many instances, is necessary for their subsistence and comfort in their declining years.

The character of the claim set up by the bank, and the interest of the parties to be immediately affected by it, make it my duty to submit the whole subject to the consideration of Congress; and I leave it to their wisdom to adopt such measures as the honor of the Government, and the just claims of the individuals injured by the proceedings, may be deemed to require.

Having called for the opinion of the Attorney General upon this occasion, with a view to a thorough investigation of the question which has thus been presented for my consideration, I enclose a copy of the report of that officer, and add my entire concurrence in the views he has taken.

ANDREW JACKSON.

February 4, 1834.

Attorney General's Office, *February* 3, 1834.

Sir: Pursuant to your directions, I have carefully examined the communication addressed to the Secretary of War by the president of the Bank of the United States, under date of the 23d ultimo, and, after a brief notice of the circumstances which have given rise to the questions submitted to me, will proceed to state my opinion thereon.

The act of the 7th of June, 1832, after granting to certain officers and other persons, for their services in the war of the Revolution, the pay and annuities therein prescribed, proceeds to enact that the pay so allowed shall, *under the direction of the Secretary of the Treasury*, be paid to the persons entitled thereto, at such *places* and *times* as that officer may direct. By a joint resolution, approved on the 28th of June, 1832, all the duties imposed on the Secretary of the Treasury by this act were transferred to the Secretary of War. In the execution of the duties thus devolved on him, the latter officer assigned to the Pension office, then and still a bureau of his Department, the task of receiving, examining, and deciding on, applications for the benefit of this act. This arrangement was made, not because the law was, strictly speaking, a *pension law*, but because the whole subject bore so much analogy to the pension system as to make it proper to commit its general management to the Pension office.

For the like reason, the duty of paying those persons whose claims were duly admitted was assigned by the Secretary of War to the president of the Bank of the United States and of its branches, those officers being then the disbursing agents actually employed by the Government under the various pension laws.

With the view of enabling them to make the proper payments under the act of 1832, various lists and other documents have been transmitted to them from the Pension office; and they have also, from time to time, been provided with funds from the same office, by means of drafts on the banks in which the public moneys were deposited. In this way the bank and its branches, or the presidents of those institutions, have become possessed of various books, vouchers, and other documents relating to payments under the act referred to; and are also in possession of a considerable amount of funds belonging to the Government, being the unexpended balances of moneys placed in their hands in the manner and for the purposes above stated.

In the exercise of the same authority, by virtue of which he originally committed this agency to the Bank of the United States, the Secretary of War has recently thought proper to discontinue the employment of that institution and its branches, so far as relates to payments under the act of June 7, 1832; and has appointed, in their stead, certain of the State banks lately selected as banks of deposite by the Treasury Department. In the city of Philadelphia the Girard Bank was appointed for this purpose; and, in order to carry this arrangement into effect in that city, the Commissioner of Pensions, in obedience to an order of the Secretary of War, has directed the president of the Bank of the United States to transfer to the president of the Girard Bank the funds, books, and papers of the agency under the act of the 7th June, 1832.

With this requisition, the Bank of the United States, after first ascertaining that the Commissioner of Pensions had acted under the directions of the Secretary of War, has refused to comply, on the ground that the requisition was not warranted by law, and that the bank has not only the right to disobey it, but is bound to do so by its duty to Congress, and by a due regard to its own safety. The letter referred to me contains an elaborate argument by the president of the bank in support of these positions; and it is upon the points thus taken and defended that you have required my opinion.

I have given to the whole subject, and especially to the argument transmitted by the bank, a mature, and, I trust, dispassionate consideration. The result of my investigations and reflections is a decided conviction that the order in question was fully warranted by law, and that no valid reason has been assigned for refusing to obey it.

The president of the bank admits that there is nothing in its charter which grants or promises to that institution

any agency in the payment of pension moneys; but he refers to various legal provisions, for the purpose of showing that Congress has devolved upon the bank, to the exclusion of every other officer or agent, the duty of paying pensions and pensioners in those States where the bank and its branches are established, and has given to it the power of selecting some State bank for that purpose, in States where there is no branch of the Bank of the United States. And to prove that the agency has been so confided, by positive law, to the Bank of the United States, that no change can be made in it except by special act of Congress, he refers to several such acts establishing, in particular places, new pension agencies; and quotes from a letter of the present Secretary of War, under date of the 1st of March, 1832, a distinct admission that the War Department had, at that time, no authority to appoint "a pension agent in any State or Territory where the United States Bank has established one of its branches."

The letter referred to me then proceeds to consider (what is really at this time the only subject of controversy) the law of June 7th, 1832; and on the assumption that this law is a part of the pension system, and merely extends the benefits of that system to a new class of pensioners, it maintains, in effect, 1st. That the pensioners thus created by the act of 1832 are, as a matter of course, to be paid by the Bank of the United States as the general pension agent of the Government, unless the clause which declares that they shall be paid "at such *places* and *times* as the Secretary may direct," can be construed to authorize him not only to designate the place and time of payment, but also to appoint the agent by whom such payment is to be made; 2dly. That the clause referred to cannot, with propriety, be so construed; and 3dly. That the Bank of the United States has, therefore, always been, and still is, the sole agent for making payments under the law of 1832, and can only be discharged from this employment by an act of Congress.

I have already mentioned that the Bank of the United States was, at the time of the enactment of the law of 1832, the general agent for the payment of pensions, properly so called; and it may also be conceded, for the purposes of the present inquiry, (although the point is by no means clear as to all the pension laws,) that this agency has been so conferred on it by law, that it cannot be taken from it except by some new exertion of legislative power. But, after giving the bank the full benefit of this concession, I cannot yield to it the positions above maintained; on the contrary, I think them untenable, and for the following, among other reasons:

First. The general pension agency would not embrace the payments authorized by the act of June 7, 1832, even had that act contained no special provision in relation to those payments; because it is not, properly speaking, a *pension law*, and does not come within the legal regulations for the payment of pensions.

I have already stated that the execution of this law was, immediately after its passage, assigned to the Pension office, and that, until the recent order of the Secretary of War, the general pension agents had been employed to make payments under it. From these and other circumstances, those payments have usually been spoken of by public officers and others as "pensions under the law of 1832;" and the president of the bank builds his entire argument on the assumption that such is their true character, and that, as part and parcel of the pension system, they are subject to all the incidents of that system. In this I think it very clear that he has fallen into an error, probably in consequence of adopting, without sufficiently considering the history, character, and provisions of the law itself, the general language usually applied to it.

The exposition of this error will, independently of any other consideration, be perfectly decisive of the questions referred to me. I shall therefore endeavor to place this point in its true light, though, in order to do so, some minuteness of detail will be found to be unavoidable.

The first pension law passed after the organization of the Federal Government was the act of the 29th of September, 1789. By this act, certain military pensions which had been granted by the States to invalids, wounded or disabled during the war of the Revolution, were assumed by the United States for one year, and directed to be paid "*under such regulations as the President of the United States might direct.*" This act was continued, or its place supplied, by subsequent laws; and various other laws were also, from time to time, passed by Congress, granting pensions to invalids by name, or prescribing regulations under which persons who might be wounded, or otherwise disabled in the public service, might entitle themselves to pensions. By some of these acts, the payments were to be made under such regulations as the President might direct; by others, (and this was the more usual direction,) the pensioners were to be paid in the same manner as the invalids before placed on the pension list.

In the mean time, the President of the United States, in pursuance of the authority vested in him by some of the first laws, had directed that the several commissioners of loans, in those States where such officers existed, should be employed as agents of the Government in the payment of pensions, and they continued to be so employed until after the organization of the Bank of the United States. In the charter of that institution, Congress reserved the right of requiring the bank, by law, to perform the duties of commissioners of loans; and this reserved right was afterwards exercised by the act of the 3d of March, 1817, quoted at length by the president of the bank in the letter referred to me. Along with the duties imposed on the commissioners of loans by the laws creating their offices, or supplementary thereto, the special duties of pension agents, assigned to them by the Executive, were also transferred to the *presidents* of the bank and of its branches, who thus became the disbursing agents of the Government under the pension laws then in force.

Those laws, up to this period, provided only for invalids; but, at the next session of Congress, a large addition was made to the pension list by the act of the 18th of March, 1818, which authorized the payment of pensions to certain indigent officers and soldiers of the Revolution; and which declared that they should be paid "in the same manner as pensions to invalids who have been placed on the pension list *are now paid.*" By virtue of this reference to the then existing usage under the invalid pension laws, the Bank of the United States and its branches also became the paying agent under the law of 1818; and as similar clauses have been inserted in the various acts since passed, supplementary to that law, and to the other pension laws, the payments under them are to be made through the agency of the bank, except so far as Congress shall have authorized, by special laws, the employment of other agents. In respect to all the laws now spoken of, it is also to be observed that they invariably direct that the parties entitled to the benefit of their provisions shall be placed on the "*pension list,*" and always speak of the moneys granted, as "*pensions,*" and of the persons who are to receive them as "*pensioners;*" thus furnishing the means of distinguishing with precision those laws which really belong to the pension system, from those that merely bear some analogy to it.

We are now prepared to look into the act of June 7th, 1832; and the first observation that occurs is, that this act, so far from being supplementary to the pension laws, or to any one of them, is expressly declared by its title

to be supplementary to the act of the 15th of May, 1828, "for the relief of certain officers and soldiers of the army of the Revolution." The first section also refers to that law, and the whole act is evidently a mere extension of the principle established by the act of 1828.

Now, the act of May 15th, 1828, has no connexion whatever with the general system of pension laws. It was the commencement of another and an entirely different system, as will be seen by referring to its provisions.

The first section of the act of the 15th May, 1828, is in the following words: "*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That each of the surviving officers of the army of the Revolution, in the continental line, who was entitled to half pay by the resolve of October twenty-first, seventeen hundred and eighty, be authorized to receive, out of any money in the Treasury not otherwise appropriated, the amount of his full pay in said line, according to his rank in the line, to begin on the third day of March, one thousand eight hundred and twenty-six, and to continue during his natural life: *Provided,* That, under this act, no officer shall be entitled to receive a larger sum than the full pay of a captain in said line."

On the face of this section we perceive that, instead of extending the bounty of the nation to a new class of invalids or indigent persons, in the form of a pension, the law merely makes provision for the satisfaction of an equitable claim on the justice of the Government, and carefully avoids any such expression as might connect it with the system of pensions then in force. The like distinction is recognised in the second and fifth sections, and still more emphatically in the third, which is in the following words: "Sec. 3d. *And be it further enacted,* That every surviving non-commissioned officer, musician, or private, in said army, who enlisted therein for and during the war, and continued in its service until its termination, and thereby became entitled to receive a reward of eighty dollars, under a resolve of Congress passed May fifteen, seventeen hundred and seventy-eight, shall be entitled to receive his full monthly pay in said service, out of any money in the Treasury not otherwise appropriated; to begin on the third day of March, one thousand eight hundred and twenty-six, and to continue during his natural life: *Provided,* That no non-commissioned officer, musician, or private, in said army, who is now on the pension list of the United States, shall be entitled to the benefits of this act."

Here, again, it is apparent that the payments directed by this section are granted not as pensions gratuitously conferred, but for the purpose of providing an equitable equivalent for the reward promised in the resolve to which the section refers; and, by referring to the debates and other proceedings which accompanied the passage of the law, it will be seen that its enactment was advocated, principally, if not exclusively, on this ground.

The only remaining section not quoted or alluded to is the fourth, which is as follows:

"Sec. 4. *And be it further enacted,* That the *pay* allowed by this act shall, *under the direction of the Secretary of the Treasury,* be paid to the officer or soldier entitled thereto, or to his authorized attorney, *at such places and days as said Secretary may direct;* and that no foreign officer shall be entitled to said *pay,* nor shall any officer or soldier receive the same until he furnish to said Secretary satisfactory evidence that he is entitled to the same in conformity to the provisions of this act; and the *pay* allowed by this act shall not, in any way, be transferable or liable to attachment, levy, or seizure, by any legal process whatever, but shall enure wholly to the personal benefit of the officer or soldier entitled to the same by this act."

In this section, and indeed throughout the whole act, we have the clearest indications that the *pay* then provided for was considered as entirely different from the *pensions* before granted; and that it was intended by the Legislature to leave the selection of paying agents, if any should become necessary, to the Secretary of the Treasury, an officer who had no connexion whatever with the pension laws. They do not say, as had been done in the act of 1818, that the payment should be made "in the same manner as pensions to invalids are now paid," nor do they in any manner allude to the regulations on that subject then in force. But with full knowledge, as must be presumed, of the terms of the pension laws, and of the fact that the Bank of the United States was then employed as the pension agent, they place the whole subject under the direction of the Secretary of the Treasury.

The practical construction of the act of 1828 has, in principle and effect, corresponded, in all respects, with the foregoing view of its intent. Drafts for the moneys payable under it are transmitted, under the special direction of the Secretary of the Treasury, to the claimants at their respective residences, or are delivered at the city of Washington to their authorized attorneys. And although the *cashier* of the branch bank at Washington, as one of the depositories of the public moneys, has been employed by the Treasury Department as its agent to furnish these drafts, and to deliver or remit them, as the case might require; yet this was done by the Secretary of the Treasury under the authority given him by the law itself, and not upon the ground that the bank was entitled to be so employed, by virtue of its general agency under the pension laws. This is evinced by the facts that this agency has been committed to the *cashier* and not to the *president* of the office; that, in all transactions between him and the Department, he is styled an "*agent for paying claims under the act of the 15th of May,* 1828," and not a *pension agent;* that no list or roll is kept by him containing the names of the persons entitled, with authority to pay on being satisfied as to the identity and life of the party; and that every draft furnished by him is so furnished in obedience to a special direction given by the Secretary, who not only decides on the original claim, but on every subsequent claim, for a semi-annual payment. In all these respects, the course of the pension agency is entirely different. The law of 1817, by which the duties then performed by the commissioners of loans, including the general pension agency, are transferred to the Bank of the United States, expressly declares that these powers "shall be performed" by the *presidents* of the bank and its branches, and that their acts shall be countersigned by the cashier; they are styled, in all transactions with them under this law, "pension agents," or "agents for pensions;" and they are intrusted with the custody of the lists or pension rolls of each class of pensioners connected with their agency. When a claim to a pension is admitted, the president of the bank, at the proper location, is directed by the pension officer to inscribe the name of the party on the roll kept at the bank, and to pay to the time of the last semi-annual payment if the claimant should be still living, and if not, then up to the day of his death. The duty of ascertaining the identity and life of the party is thus left to the pension agent, and the same responsibility is committed to him in respect to all subsequent payments, which he makes from the roll in his possession, and without any special direction from the Pension office, so long as he is satisfied of the life of the party. This whole course of proceeding recognises the distinction above stated, and indeed is only to be warranted by it.

On recurring to the law of 1832, the next observation to be made is, that it is truly supplementary to that of 1828; proceeds on the same principle; is a part of the same system, and merely extends the policy of that law to a new and larger class of persons, who are to be paid in the same manner as those embraced in the former law.

This will be rendered manifest by a comparison of its provisions with those of the act of 1828, from which some of them are copied in terms, and others with such variations only as were rendered necessary by the wider scope of the new act. The officers and soldiers embraced within its provisions, like those provided for in the act of 1828, are treated as having a claim on the justice of the nation, and not merely as objects of its bounty; the moneys directed to be paid to them are denominated *pay*, and not *pensions;* and those moneys are to be paid to all who have performed the requisite service, whether wounded or otherwise disabled or not, and without regard to their pecuniary circumstances. The third section, which is substantially a transcript of the fourth section of the act of 1828, will furnish a sufficient illustration of this general conformity. It is in the following words:

"Sec. 3. *And be it further enacted*, That the *pay* allowed by this act shall, *under the direction of the Secretary of the Treasury*, be paid to the officer, non-commissioned officer, musician, and private entitled thereto, or his or their authorized attorney, *at such places and times as the Secretary of the Treasury may direct;* and that no foreign officer shall be entitled to said *pay*, nor shall any officer, non-commissioned officer, musician, or private, receive the same until he furnish the said Secretary satisfactory evidence that he is entitled to the same in conformity to the provisions of this act; and the *pay* hereby allowed shall not be in any way transferable, or liable to attachment, levy, or seizure, by any legal process whatever, but shall enure wholly to the personal benefit of the officer, non-commissioned officer, musician, or soldier, entitled to the same."

The two acts, then, have the same general objects, and are framed, so far as the present question is concerned, in substantially the same words; and as Congress must have known that the law of 1828 had never been executed by the pension agents, the careful manner in which they have conformed the third section of the last law to the fourth section of the act of 1828, is decisive to show that they intended to place the business of making the payments authorized therein, on precisely the same footing with the like business under the former law.

The analogy which exists between the law of 1828 and that of 1832, is adverted to in the communication referred to me; and an argument against the power claimed by the Secretary of War under the latter law, is attempted to be derived from the course of the Treasury Department under the former. For this purpose it is remarked that, "although the act of May 15, 1828, gave the same power to the Secretary of the Treasury as the act of 1832 does, yet that officer never, it is believed, appointed any agent, or directed any transfer of pension funds under its authority." This reference, it appears to me, is peculiarly unfortunate. The mode in which claimants, under the act of 1828, have been paid by the Department, has already been explained; and as the whole matter was transacted at the seat of Government, it was unnecessary to appoint agents, or provide funds at any other place. In point of fact, however, it is incorrect to say that the Secretary of the Treasury "never appointed any agent under the authority" of this law. So far as any agency was required, he appointed the cashier of the branch bank at Washington to perform its duties; and the appointment of that officer, and all the details connected with the mode of payment, were not less repugnant to the present claims of the bank than if payments had been directed to be made at places other than the seat of Government, and by agents having no connexion with the bank.

Indeed, it is quite clear that neither the Secretary of the Treasury nor the bank have, at any time since the passage of the act of 1828, supposed that payments under it were to be made through the intervention of the presidents of the bank and its branches, as *pension agents.* The claim now set up under the corresponding provision in the act of 1832, is, as we have seen, entirely new, and in direct opposition to the construction given to the same words in 1828, by the then Secretary of the Treasury, and by every one of his successors since, and constantly acquiesced in by the bank, without complaint or remonstrance.

Without dwelling longer on the numerous particulars by which the act of 1832, as well as that to which it is supplementary, is to be distinguished from the pension laws embraced within the general agency of the bank, I think they fully warrant me in saying that these laws, though properly enough in common parlance spoken of as *pension laws*, do not belong to that general agency, but are to be treated precisely as if no such agency had ever been created. In that case, no one would have doubted the power of the Department to which they were referred, to appoint all the agents necessary to their proper execution. Even, therefore, if the law of 1832 had contained no provision in respect to the payments to be made under it, I could not have doubted the power of the War Department to appoint agents for that purpose, and to dismiss or change them at its pleasure. But,

Secondly. The act of June 7, 1832, contains an express provision in relation to payments, which, in my judgment, vests in the Secretary of War ample authority to appoint the paying agents, as well as to direct the times and places of payment.

For the purposes of this part of the case, I shall consider the act of 1832 as a pension law, and shall concede to the bank the agency claimed by it, unless it can be shown that the employment of other agents is expressly authorized by the act itself. The third section, which has already been quoted, appears to me to have placed the whole business of payment, including the agency by which, and the mode in which, it is to be made, under the control of the Secretary of the Treasury, and as amended by the joint resolution, of the Secretary of War.

In opposition this view, the president of the bank submits a labored argument to prove that the section does not confer any such authority on the Secretary, because it only empowers him to direct "the *places* and *times*" at which the payments are to be made; which terms, it is contended, are not to be construed to authorize the appointment of *a person to pay*, but only of a place where, and time when, to receive.

It is a fatal objection to the universality of this proposition, that, as the power to appoint the *places* of payment is unlimited, the Secretary may appoint a place at which there is no bank or other pension agent, in which case the power to appoint *an agent to pay* must necessarily exist, or the acknowledged power to appoint a place of payment be defeated. In this class of cases, the power to appoint a *place* of payment is thus seen to include, as incidental to it, the power of appointing an agent to pay. And if that power be possessed in any one case, it would seem to be possessed in every other; unless, indeed, it can be held that the same word in this law means one thing in reference to one place, and a totally different thing in reference to another—a construction too refined to be readily adopted.

It is also objected that the order of the Secretary of War, appointing the president of the Girard Bank as the paying agent, and the banking-house of that corporation as the place of payment, makes no change in the *place*, but only in the *agent*, who is still to make payment in one and the same place with the former agent. The argument by which this objection is maintained, strikes me as rather plausible than solid; and that portion of it which undertakes to define the word "*places*," seems to violate the very rule of interpretation announced in the context. That word, we are told, (and the remark is undoubtedly a just one,) must be construed "in its ordinary and com-

mon-sense meaning, without being strained from its natural construction, in order to diminish the power of Congress." Now "the banking-house of the United States Bank in Chestnut street, Philadelphia," and "the banking-house of the Girard Bank, Philadelphia," are certainly each of them "*places*," within the natural and ordinary sense of the word. I think, also, they are more clearly "*places*" within the meaning of that word, as used in this act, than "the city of Philadelphia," or any such general designation. The Legislature may reasonably be presumed to have intended a specific designation rather than a general one, because the former is more distinct and useful in the information it communicates, and is, moreover, usually employed in all business transactions, when it is intended that the payment of money shall be made at a place certain. If this construction be correct, then there has been, in this case, an attempt to change the *place of payment*, as well as to change the agent; and as the former power is clear, and the latter has been shown to be incidental to it, I think the order was valid in both respects.

With respect to the extraordinary and dangerous consequences imputed to the construction claimed by the War Department; the special acts passed since the act of 1832, or now pending before Congress; the former employment of the bank to make payments under the act in question, or the terms in which that act is spoken of by the Commissioner of Pensions—all which are objected or referred to as auxiliary to the main argument, it is sufficient to observe that the pertinency of these topics to that argument, is mainly founded on the assumption that the law of 1832 is part of the pension system, and therefore embraced within the general pension agency of the bank; and as this assumption has already been shown to be erroneous, I deem it unnecessary to extend this communication by any further observations on this branch of the subject.

In remarking on the phraseology of the third section of the act of 1832, I have thus far followed the course of argument of the president of the bank. In addition to what has already been said, it remains to be observed that, although much ingenious and labored reasoning has been expended in his communication upon the words "at such *places* and *times* as the Secretary may direct," yet that other and much more important words in the same section have been passed over without remark. The law not only provides that the pay allowed by it shall be paid "at such *places* and *times* as the Secretary may direct," but it also enacts that it shall be paid "*under the direction of the Secretary of the Treasury*." It is a sound rule in the interpretation of statutes, and, indeed, of all written language, that such a construction should be adopted, if it can be done without violence to the context, as will give effect to every sentence, clause, and word. On the construction contended for by the president of the bank, no effect whatever is given to the clause "*under the direction of the Secretary of the Treasury*." The grammatical sense of the section will be complete without it, and so will be its practical effect according to the construction of the bank. On that construction, then, these words are mere expletives, which are to be wholly disregarded. I cannot so consider them. They are found in the law, and cannot be stricken out; and, if the context will permit it, they must receive their natural and ordinary construction. This effect may be given to them in the present instance, without violence to any other part of the law; and it obviously is to confide the whole business of making payment, including the power of appointing the person by whom and the manner in which it shall be made to the head of the Department.

This point is so clear and palpable to my own understanding, that I cannot think it needful to support it by argument or illustration; but if either were needed, they would be found in the course of the Executive under the early pension laws. I have already had occasion to observe that several of those laws directed the pensioners to be paid "*under such regulations as the President of the United States shall direct*." Under the authority of these words, the first President of the United States directed the payments to be made by the commissioners of loans; and, in States where no such officers were found, he appointed other agents for the purpose. The pertinency and weight of this precedent are too obvious to require remark, but it deserves to be noticed, as a striking illustration of the unsoundness of the construction I am opposing, that it is through this very exercise of Executive authority that the bank has itself become the legal agent for the payment of pension moneys. It took the agency from the commissioners of loans, by substitution in their stead; and those commissioners, as we have seen, derived it from an executive regulation, made under words certainly not stronger than those now under discussion.

To conclude: so far as this part of the subject referred to me is concerned, the order given by the Secretary of War to the Commissioner of Pensions, and through him to the president of the Bank of the United States, appears to me to have been fully warranted by law, and not to be successfully impugned by the objections which have been made to it. It follows, as a necessary consequence, that the refusal of the bank, and of its president, to comply with that order, was a breach of trust, and a violation of its duty to the Government.

But the communication referred to me presents another point which, from its peculiar character, and the importance of its general bearings, deserves very grave consideration.

The bank, whilst it admits that it has no *chartered right* to be employed as disbursing agent under any of the pension laws, yet, on the assumption that it is in execution of the acts of Congress, claims to be considered as a public officer, and to be invested with authority to decide on the validity of the orders of the War Department. And the doctrine is distinctly asserted that the Congress of the United States, "as the common and only judge," is alone competent to decide on any conflict between the Department and the bank. The reason assigned in defence of this pretension (independently of the professed desire to perform, with fidelity, the duties imposed on the bank) is, "that it would be no justification to it to obey any other authority than that of Congress; for if it pays money, or transfers money, without the authority of Congress, its accounts may be disallowed by the accounting officers." And, in support of this suggestion, the Secretary of War is reminded that such a disallowance has already occurred in consequence of the obedience of the bank to the instructions of the Commissioner of Pensions.

I cannot agree, either to the validity of the pretension thus set up by the bank, or to the pertinency of the particular fact referred to in its support.

If the relations which exist, under the pension laws, between the Government and the bank, be of such a nature as to entitle the latter, or its presidents, to the character and consideration of public officers, it is very clear that they must be regarded as holding only *inferior* and *subordinate* offices. They are merely *paymasters of pensions;* and they stand in precisely the same relation to the Secretary of War, to whose Department the laws have assigned the execution of all the military pension laws, except that of May 15, 1828, which the ordinary paymasters of the army stand in to the same Department. The claim of the bank that it is authorized to look beyond the orders of the Department, to which, in this respect, it is subordinate, and to inquire into the manner in which the head of that Department intends to dispose of the books, papers, and funds demanded from the bank, is a claim which might, with equal propriety, be made by every

other paymaster, and indeed by all the disbursing agents of the Government. If this be the real character of the power asserted by the president of the bank, (and that it is so, is confidently believed,) then it can require no argument or reference to prove that it is utterly repugnant, not only to our laws and constitution, but to the first principles on which government and society are organized.

The apprehension that the bank, if it should comply with the present order, might still not receive a credit at the Treasury, I cannot but think entirely chimerical. Independently of the full and exclusive control which the law has given to the Secretary of War over the disbursement of all moneys to be paid under the act of June 7, 1832, that officer, as the head of the Department to which belongs the execution of the military pension laws, is authorized, even in reference to pension moneys properly so called, to withdraw from any one pension agent any portion of the pension moneys in his hands, either for the purpose of immediately transferring them to another agent, or of retaining them in the custody of the Department until it shall become necessary to disburse them. These acts must necessarily be subject to the responsibility on the part of the Secretary of War, of applying the moneys so withdrawn to some lawful purpose; but his order is an ample voucher and indemnity to the agent; who, in obedience to it, has made the payment it requires. This is a principle which is constantly acted on at the Treasury, especially in the case of military and other paymasters, and indeed of all disbursing agents. Whenever any such agent pays over money, in gross, to another officer or agent, in obedience to an order emanating from the head of the Department to which his agency is subordinate, it is uniformly and necessarily allowed to him by the accounting officers of the Treasury.

A distinction, however, exists between payments made under transfer drafts or special orders like that now under consideration, and payments in detail to those who claim to be the creditors of the Government. In reference to all such payments it is undoubtedly true that, if the bank or any other disbursing agent pays out the money of the Government to persons not entitled to it by law, or in a manner different from that which has been legally prescribed, such payments will be disallowed by the accounting officers of the Treasury. The special instance referred to by the bank belongs, if I am correctly informed, to the latter class of cases. According to the regulations prescribed by Congress, the disbursements made to pensioners under the orders of the War Department are subjected to the revision of the Treasury Department, the accounting officers of which have directed that those disbursements shall be accompanied by certain formalities prescribed by them under the authority of law. In the course of its agency a pensioner was paid by the bank, in obedience to instructions from the Pension office, without requiring all the formalities prescribed at the Treasury, and the payment, for the want of those formalities, was subsequently disallowed by the Auditor of the Treasury, although the order of the War Department was produced to him. The distinction between this case and the one before us is too obvious and decisive to need any additional remark.

The refusal of the bank to deliver over the books and papers belonging to this agency, is a still more palpable breach of the duty which results from the subordination of the agent to his principal, because not excused by any apprehension, well or ill founded, of prejudice to the bank. These documents having been received from the War Department alone, and not being the subject of accounting at the Treasury, might have been delivered with absolute safety to the bank and its officers. They are, moreover, exclusively the property of the Government, and have been intrusted to the bank for the sole purpose of guiding it in its payments; and as those payments are to be made semi-annually, the Government is certainly entitled, if it thinks proper to claim it, to the custody of the documents during the interval, even though it should be obliged to return them again to the bank when the day of payment shall arrive. The same remark may also be applied to the moneys of the agency, which the Government is not bound to leave on deposite in the bank, even if it were admitted that the law has imposed on it the duty of employing the bank to pay them out. The conduct of the bank, regarding it in this light, and independently of every other objection, appears to me to be wholly indefensible.

I have only to add, in closing this communication, that the importance of the subject, the elaborate discussion it had received in the paper referred to me, the obscurity in which some of the points were involved by the erroneous assumptions of that document, and the strong desire which I have felt that the grounds of my opinion should be distinctly understood, have led to a prolixity which, however I may regret it, has seemed to be unavoidable.

I have the honor to be,
With high respect,
Your obedient servant,
B. F. BUTLER.

To the President *of the United States.*

War Department,
January 30, 1834.

Sir: I have the honor to lay before you copies of the correspondence with the Bank of the United States and some of the branches, respecting the transfer to certain local banks of the duty of making payments under the act of June 7, 1832, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolution," that such measures may be taken as the circumstances of the case may, in your opinion, require.

Very respectfully,
I have the honor to be,
Your most obedient servant,
LEWIS CASS.

To the President *of the United States.*

Bank of the United States,
January 11, 1834.

Sir: Having recently received from Mr. J. L. Edwards, Commissioner of Pensions, a letter directing the transfer to the Girard Bank of all the books and funds connected with the pension agency, under the act of Congress of 7th June, 1832, I requested to know from him the authority under which he acted, and have heard, in reply, that he was executing orders given by you. In a matter of so much importance it is deemed proper, in considering how far the bank can lawfully comply with such an order, to understand precisely the source whence it proceeds. I have, therefore, the honor to request that you will have the goodness to apprize me, for the information of the board of directors, whether the order in question has been issued by your directions and authority.

With great respect, yours,
N. BIDDLE, *President.*

Honorable Lewis Cass,
Washington, D. C.

Department of War,
January 13, 1834.

Sir: In answer to your letter of the 11th instant, I beg leave to inform you that the Commissioner of Pensions, in authorizing the banks of deposites to make the payments under the act of June 7, 1832, instead of the Bank of the United States and its branches, at those places where local banks have been selected by the Treasury Depart-

ment as banks of deposite, acted in conformity with instructions given him by me.

The office of Commissioner of Pensions is established by law, and he is required "to execute, under the direction of the Secretary of War, such duties in relation to the various pension laws as may be prescribed by the President of the United States." It is due to the Commissioner to remark that, in such a case as the present, there is no reason to suppose he would act without specific instructions. Very respectfully, &c.

LEWIS CASS.

NICHOLAS BIDDLE, Esq.,
President of the U. S. Bank.

BANK OF THE UNITED STATES,
January 23, 1834.

SIR: I have had the honor of receiving your favor of the 13th instant, in which you state that the directions of the Commissioner of Pensions to transfer the funds, books, and papers of the pension agency, under the act of Congress of June 7, 1832, from the Bank of the United States to the president of the Girard Bank, were in conformity to instructions given to him by you. Having thus ascertained that these directions emanated from the highest authority claiming the power to give them, the board of directors have proceeded to consider how far they would be justified in conforming to them, and, after a very deliberate examination, they have instructed me to apprize you that they cannot, consistently with their duty under the act of Congress assigning the pension agency to the bank, make the transfer you have requested.

Having communicated this determination, I might stop here; but it accords better with the feelings of respect entertained for you, both personally and officially, to explain to you, without reserve, the reasons of their decision. This I shall do in a few words.

The payment of pensions was no part of the original contract with the bank, which stipulated only to perform the duties of commissioner of loans. It was not until after the bank was chartered that an act of Congress devolved upon it this charge, which was not declined, from a natural desire to give every facility which it could afford for the transaction of the public business. But, having assumed the duty, the bank will not the less faithfully perform it, because it is at once voluntary, gratuitous, and burdensome. The bank, then, is in the execution of the acts of Congress: these acts prescribe certain duties to certain officers; the Congress itself being the common and only judge between them when they differ in opinion as to their respective powers, and all agreeing that whatsoever Congress has prescribed must be obeyed, till Congress otherwise directs. It is no justification to the bank to obey any other authority, for, if it pays money, or transfers money, without the authority of Congress, its accounts may be disallowed by the accounting officers. This, as you are aware, has already occurred in consequence of its obedience to the instructions of the officer now issuing this order, and the question which now presents itself, is, whether Congress, having by positive enactment, placed the pension moneys in the bank, has authorized the Secretary at War to withdraw them? The decision of this question depends, of course, on two things: first, what Congress has directed the bank to do; and, second, what Congress has authorized the Secretary of War to do. Of these in their turn. The charter of the bank, passed on the 10th of April, 1816, declared that the bank "shall also do and perform the several and respective duties of commissioners of loans for the several States, or any one or more of them whenever required by law." As soon as the bank was organized, the act of March 3d, 1817, passed, providing—

1st. That "the several duties of commissioners of loans for the several States shall be performed by the president of the Bank of the United States, the presidents of the several branches of said banks, and by the presidents of such State banks as the Bank of the United States might employ, in States where no branch of the Bank of the United States should be established;" and

2d. That "it shall be the duty of the Secretary of the Treasury to notify the president of the Bank of the United States, that the duty now performed by the commissioners of loans will be transferred to the Bank of the United States; and he shall direct the commissioners of loans, and the agents for military pensions, where there is no commissioner, respectively, in the several States, to deliver to the president of the Bank of the United States, or to the president of a branch thereof, or to the president of such State bank as the Bank of the United States may employ, on such day or days as he may designate, the register and all the books and papers of their respective offices," concluding with a proviso, that "this should not be construed to extend to any agents for military pensions in any State where there was no bank established by law."

An act of Congress had, in the mean time, passed on the 24th of April, 1816, declaring "that the Secretary of War is authorized and required to appoint some fit and proper person in those States and Territories where there is no commissioner of loans, and also in the District of Maine, to perform the duties in those States and Territories, and in said District, respectively, relating to pensions and pensioners, which are now required of said commissioners in their respective States."

These acts form the basis of the pension agency system of the United States; which is

That the Bank of the United States and its branches pay the pensions in States where the bank and those branches are established;

That the bank designate for that purpose some State bank in States where there is no branch bank; and

That where there is neither a branch of the United States Bank, nor any State bank which it can designate, the Secretary of War is authorized to appoint a pension agent.

Accordingly, whenever a new pension agency, not provided for in these acts, was to be established, a special act of Congress was necessary.

Thus, on the 3d of March, 1819, an act passed, by which the Secretary of War was "authorized to appoint an agent, in addition to the one already appointed, in the State of Tennessee, for the purpose of paying pensioners of the United States residing in East Tennessee." So, on the 20th of May, 1826, the Secretary of War was, in like manner, "authorized to establish a pension agency at Pittsburg, in the State of Pennsylvania, for the payment of pensioners of the United States resident in that vicinity," and "that the Secretary of the Treasury is authorized to make the necessary arrangements with the Bank of the United States for paying the before-mentioned pensioners at the office of discount and deposite of said bank at Pittsburg."

From these it is manifest that a positive law directed the transfer to the Bank of the United States of the pension agency, and that the Secretary of War had no authority whatsoever to change the system of Congress. So clear was this, that when, in the year 1829, the same officer who has directed this transfer ordered a similar transfer at Portsmouth, New Hampshire, the order was retracted. In like manner, when your predecessor established a pension agency in Albany, the subject was examined by yourself in consequence of the representations of the bank against that measure, and you did me the honor to write to me on the 1st of March, 1832, as follows: "I am satisfied from a careful examination of the laws of Congress, that this Department is not warranted

in appointing a pension agent in any State where the United States Bank has established one of its branches. Hence the agent at Albany has been notified that his appointment, by this Department, has this day ceased."

It will therefore be admitted that, up to the 1st of March, 1832, there was not the least authority in the Department of War to make this transfer, and it remains to be seen what power Congress has since given to that Department. The only authority alleged on this occasion by the Commissioner of Pensions is, that the act of the 7th of June, 1832, provides, "That the pay allowed by this act shall, under the directions of the Secretary of the Treasury, be paid at such *places and times* as the Secretary of the Treasury shall direct;" which authority was, by a resolution of Congress of the 28th of June, 1832, transferred to the Secretary of War.

The effect of this provision is now to be considered. When Congress passed the act of June 7th, 1832, there had existed a pension agency from the year 1789—a period of forty-three years. The laws had fixed that the Bank of the United States and its branches should be the pension agents, and that the Secretary of War should appoint pension agents where there was neither a branch of the United States, nor a State bank. That system has been in full operation for fifteen years, and was perfectly familiar to Congress, who had been legislating upon it for those fifteen years, adding to the pension list numerous classes of pensioners, to be arranged according to their residences, to the agencies most convenient for them. In prosecution of the same design, the act of June 7th, 1832, made a large addition to the pension list, accompanying it with a general declaration that these pensioners should receive their allowances "at such *places and times* as the Secretary of the Treasury might direct."

It is very difficult to imagine that, in this phraseology, Congress had any other design than to do what they had so often done before—authorize the arrangement of the pensioners according to localities, by paying them at the pension agencies most convenient to their respective residences.

To the payment of any pension there must be a union of four things: a time when to receive; a place where to receive; a person to receive; and a person to pay. Congress knew this perfectly; and in this act of June 7th, 1832, they designated the receiver, the time and place of receipt, but said nothing about the agent who was to pay; because, to assign the place was only to designate the pension agency existing at that place. A pension agency being established by previous acts of Congress, and which could not even be altered, as has just been seen, except by special act of their own. The question then arises, does the authority to name the *place* of payment authorize the Secretary to appoint the *person* who is to make the payment? Still further; does an authority to name the place of payment, at which there is already an agent, authorize the Secretary to dismiss that agent, to appoint another in that same place, to withdraw the funds from the old agent, and place them in the custody of the new agent? The question, in short, is, whether places and persons are synonymous? The word "places" must be used in its ordinary and common-sense meaning; without being strained from its natural construction in order to diminish the power of Congress. In that meaning, Philadelphia is a place, New York is a place, Baltimore is a place; and when the Secretary is authorized to assign the pensioners to those places respectively, it must have been intended to designate the general locality of those cities. To go further than this—to say that Chestnut street is one place, and that Third street is another place—that the banking-house of the United States Bank is one place, and the Girard banking-house another place—and that the Secretary may appoint a pension agent for every street, seems to involve an utter confusion of all distinction of persons or places. Such a change is a change of agency, but certainly not a change of place. There would be more plausibility, though not more justice, in this construction, if any actual change of "place" had occurred. But it is not even contemplated. The Commissioner of Pensions, in his letter of the 15th instant to the president of the Girard Bank, says, expressly, that "it is determined at present to confine the payments, under the act of June 7th, 1832, *to the banks of deposite*," which are, of course, in the places where the bank and its branches now are; and in your letter to me of the 13th instant, you mention "that the Commissioner of Pensions in authorizing the banks of deposite to make the payments under the act of June 7th, 1832, instead of the Bank of the United States and its branches *at those places where* local banks have been selected by the *Treasury Department as banks of deposite*, acted in conformity with instructions given him by me."

It is manifest, then, that these instructions do not direct the *place* where the payments are to be made. They direct the *person* who pays in that *place*—they make no change in the *place*—they only changed the agent who is to make the payment in that place; and here seems to lie the radical error of the whole proceeding. The unsoundness, moreover, of such a construction, will be seen in the dangerous consequences to which it leads. The Secretary is simply authorized to direct the times and places at which certain soldiers are to receive their pensions. From this phrase it is attempted to deduce the following consequences:

The Secretary of War, by the act of 1816, is authorized to appoint pension agents "in those States and Territories where *there is no commissioner* of loans." Under the authority of these phrases, he appoints them in States and Territories where there is a commissioner of loans. The act of March 3d, 1817, directs a formal surrender to the bank of all the records of pension agencies. The Secretary, by virtue of these phrases, orders the bank to give up funds and records to agents of his own appointment. Congress deemed it necessary to pass a special act to enable the Secretary of War to appoint a pension agent in Pittsburg, and again in Tennessee. These phrases are now construed to empower the Secretary to appoint pension agents without limitation.

The pension money of last year, amounting to more than three millions and a half of dollars, was mainly placed in the Bank of the United States, whose whole capital was pledged for the safe keeping and the proper disbursement of the funds. The Commissioner of Pensions finds in these words a power to withdraw the whole of these funds, and place them in the hands of individuals, on personal security alone, to appoint an indefinite number of agents to make contracts with banks, and to take bonds and securities from individuals. Congress is now legislating to authorize the Secretary to appoint a pension agent in Alabama. According to this construction their labor is superfluous, since the Secretary may appoint an agent, not only in Alabama, but wherever and whenever he thinks proper.

The very title of the act seems conclusive against ascribing to it any such design. We have seen that the original transfer of the pension agencies was made by a formal act of Congress, with all its cautionary stipulations. We have seen that whenever any authority over pension agencies was given to the Secretary of War, it was by virtue of a separate and clear act of Congress. Now, if Congress intended to alter their established system, undoubtedly they would have said so! Yet this act, which is supposed to repeal and supersede no less than five acts of Congress—the act of 1809, the act of April 10, 1816, of 24th April, 1816, of 1819, of 1826—is merely an act supplementary to the "act for the relief of certain surviving officers and soldiers of the Revolution." It says

nothing about pension agencies; professes to repeal nothing, to transfer nothing, to change nothing in regard to them, and the only words it uses, from which this extraordinary power can be extorted, are words absolutely necessary to convey the intention that, as some times and places of payment must be designated, these, as matters of detail, were left to the Executive officers.

That neither Congress, nor the Executive officers themselves, supposed that the act was liable to such a construction, is apparent from their conduct since its passage.

The act itself was passed on the 7th of June, 1832; yet, on the 7th of January, 1833, the House of Representatives of that same Congress passed a bill "authorizing the Secretary of War to establish a pension agency in the town of Decatur, in the State of Alabama, and provided for the paying of certain pensioners in said town of Decatur." That bill was lost in the Senate, on the ground, it is believed, of its being an interference with the provision for paying the pensioners through the Bank of the United States. At the present session of Congress, that bill, with the same title, is again reported, and now awaits its third reading. Now, if the Congress who passed the act of June 7th, 1832, thought it empowered the Secretary of the Treasury, or of War, to establish pension agencies, why did they propose a specific act for the purpose of authorizing him to establish a single agency? That the Secretary of the Treasury did not so construe it, is manifest from the fact that, although the act of May 15, 1828, gave the same power to the Secretary of the Treasury as this act of 1832 does; that is, authorizes the payments "at such *places* and days as the said Secretary may direct," yet that officer never, it is believed, appointed any agents, or directed any transfer of pension funds under its authority.

That the War Department did not so construe it, is evident from the fact that, during eighteen months from the passage of the act to the present time, the pensions under this act have been arranged to the respective pension agencies, and have been paid there without any distinction of place between them and the other pensioners. Thus, in the report made to you by the Commissioner of Pensions on the 27th of November, 1833, he says: "To pay the pensioners under the acts of March 18, 1818, May 1, 1820, and March 1, 1823, there have been sent to the pension agencies during the year past, $774,376 88
To pay invalid pensions, - - 287,134 66
To pay pensioners under the act of June 7, 1832, - - - - 3,547,179 57"
Intimating no difference of any kind between the pensioners under this act and under preceding acts.

On the whole, it appears to the board of directors that the instructions of the Commissioner of Pensions have no warrant of law; that they cannot surrender the books and papers committed to their custody by Congress without a revocation by Congress of that trust. Congress is fortunately now in session, and if it be the pleasure of that body to release the bank from this charge, it will be very promptly and willingly surrendered; but, until then, they do not feel themselves at liberty to do what they would deem a violation of their duty to Congress.

In the mean time, however, the pension agents will not consider themselves at liberty to pay any pensions under this act while the present injunction not to pay them exists, as it may create an obstacle in the settlement of their accounts. Accordingly, no pensions under this act will be paid without further instructions from the Commissioner of Pensions. I have the honor to be, &c.

N. BIDDLE, *Prest.*

In Senate, *February* 17, 1834.

The Committee on the Judiciary, to whom have been referred the message of the President of the United States of the 4th of February last, and the accompanying documents in relation to the removal of the funds, books, and papers connected with the pension agency of the Bank of the United States, under the act of June 7th, 1832, have agreed on the following report:

The message and documents referred to the committee show the fact, that the Bank of the United States has declined to comply with an order of the Department of War, issued on the 2d of January, 1834, demanding a surrender of the funds, books, and papers belonging to the pension agency of the bank, under the act of Congress approved on the 7th of June, 1832, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolution." The order appears to have been issued by the Commissioner of Pensions, acting under the direction of the Secretary of War, and it announces the appointment, on the same day, of fifteen new pension agents to perform the duties heretofore performed by the bank as pension agent under that law. Those agents are the presidents of certain State banks to which a portion of the public deposites has been removed by the late order of the Secretary of the Treasury. At the same time, and by the said order, the Bank of the United States was commanded to *cease paying* pensioners under the law referred to. The bank, in reply to the mandate of the Secretary, while it respectfully declines to deliver the funds and papers as directed, without the consent of Congress, professes its perfect willingness to surrender its trust as pension agent, if it shall be the pleasure of Congress to release it from the charge; but regarding such a surrender, without permission, to be a violation of its duty to Congress and the country, it awaits some decision, either legislative or judicial, to discharge it from the burden of this agency, or to reinstate it in the discharge of its duties. In the mean time, fearing an obstacle in the settlement of its accounts for future disbursements, should it pay any more pensioners under this act after the prohibition of the Secretary, it has obeyed his injunction to cease paying them until further directions.

For the course pursued by the bank, the message, if it does not invoke the vengeance of the public against the institution, certainly denounces it as the cause of all the delay and embarrassment which has occurred since the Secretary's order in the payment of the debt which the gratitude of the nation has awarded to the surviving veterans of the Revolution. The President considers the conduct of the bank as a usurpation of the functions of the judicial power, and an attempt to prescribe to the Executive department the manner in which it shall execute the trust confided to it by law; condemns it as without example in the history of our country; and declares that, if the acts of the Executive may thus be checked and controlled, "the whole frame of our Government is changed."

The committee have examined the questions growing out of the documents referred to them with all the care required by a matter which, in the opinion of a co-ordinate branch of the Government, touches the honor of that Government, as well as the just claims of the surviving soldiers of the Revolution. They have found no ground for any difference of opinion among themselves, and they now unanimously submit the following view of the whole subject for the consideration of the Senate.

The fifteenth section of the act to incorporate the subscribers to the Bank of the United States, approved on the 10th of April, 1816, provides that, *during the continuance of that act*, the corporation shall, among other things, "do and perform the several and respective duties of the commissioners of loans for the several States, or of any one or more of them, whenever required by law." In less than one year after the approval of this act, Congress passed "the act transferring the duties of the commissioners of loans to the Bank of the United States, and abolishing the office of commissioner of loans," which act was

approved on the 3d of March, 1817. Both statutes were passed by the fourteenth Congress. The first section of the last act provides, "that the Bank of the United States and its several branches shall be, and they are *hereby required* to do and perform the several duties of commissioners of loans for the several States; and the Bank of the United States and its several branches, *and such State banks as the Bank of the United States may employ in those States where no branch bank shall be established*, shall observe and conform to the directions which have been, or may hereafter be prescribed by the Secretary of the Treasury, with the approbation of the President of the United States, touching the execution of the duties aforesaid."

This statute, in connexion with the fifteenth section of the charter, imposed a burden on the bank important to the Government, and still more important to those who were the most meritorious objects of its bounty. For while that section enjoined it as a duty on the corporation to give the necessary facilities for transferring the public moneys to any part of the country, and for distributing the same in payment of the public creditors, without charging commissions, or claiming allowance on account of the difference of exchange, the same section, in conjunction with the act of the 3d of March, 1817, made it the imperative duty of the bank to assume the agency of paying all pensioners of the Government; such being, at this time, one of the principal duties of the commissioners of loans. But the agent thus appointed by special act of Congress was not vested with a general discretion in the discharge of these duties. It was bound to conform to the directions of the Secretary, with the approbation of the President, "touching the execution of the duties aforesaid." The power of the Executive over the bank, in this matter, was conferred by Congress, and the extent of the power of the former over the latter was clearly defined by the same authority. No right is vested in the Executive to annihilate the agency of the bank, or to substitute another agent at Executive discretion. The agency shall exist, says the law; the bank shall pay certain moneys: but as to the time and place of payment, the portion of these pensions to be paid in certain cases, in short in all things *touching the manner of executing the duties*, this public servant shall be subject to the control of another, who shall, so far, exercise a superintendence over the former. The duties enjoined on the bank by this act are ministerial; those of the Secretary are supervisory; and the two authorities do no more clash with each other than those of the court and the marshal of the district, each of which is created by law, and liable to all the restraints imposed by that law. The bank being subject to the liabilities of a paying agent, was to have the choice of its own sub-agents among the State banks in those States where no Branch Bank of the United States was established; and, by a proviso to the third section of the same act of the 3d of March, 1817, a saving clause was introduced for its benefit in case no State bank should be established by law in any one of the States, in which case the agency "for military pensions in that State" was not to be affected by the act.

The committee consider that the Attorney General manifestly errs when he represents the "presidents of the Bank of the United States and its several branches" as the agents constituted by this act. The only agents known to the law were the bank and its several branches. They, and not their respective presidents, were required to do the several duties of commissioners of loans. They, not their presidents, were to choose sub-agents among the State banks, and the injunction to observe and conform to the directions of the Secretary in regard to the execution of their duties operated on them, not on their several presidents merely. The Attorney General says, "the law of 1817, by which the duties then performed by the commissioners of loans, including the general pension agency, are transferred to the Bank of the United States, expressly declares that these powers 'shall be performed' by the *presidents* of the bank and its branches, and that their acts shall be countersigned by the cashier.' It is true that the second section, to which he probably referred, enacts "that all such duties and acts as are now done and performed by the commissioners of loans, *in transferring stock from the books of one loan office to another, or to the books of the Treasury, or from the books of the Treasury to the books of the loan offices*, shall be done and performed by the president of the Bank of the United States, the presidents of the several branches of the said bank, and by the presidents of such State banks as the Bank of the United States may employ, (in States where no branch of the United States Bank shall be established;) and the acts of the presidents aforesaid shall be countersigned by the cashiers of those banks respectively." This section is the only one prescribing services to be performed by the presidents of the bank and its branches, unless the third section should be deemed to be of this character, which directs the transfer of the papers to the presidents, while it unequivocally recognises them only as agents of the bank to receive those papers, by an express direction that the notice of the transfer shall be, "that the duties *will be transferred to the bank*." Where the Attorney General can find that part of the law of 1817, by which the general pension agency is transferred to the presidents or cashiers of the bank and its branches, or which "expressly declares that the powers of the commissioners of loans, including the general pension agency, shall be performed by the presidents of the bank and its branches, with the counter-signature of the cashiers, the committee are at a loss to imagine. It is true that, as sub-delegates and organs of the bank, they have been sometimes addressed as pension agents in the correspondence with the Department which they have always conducted. It is true that, as the agents of the bank, conducting business by its orders, the pension rolls have been sent to them to be placed in the custody of the bank; and that, as the officers of the corporation, they have been directed to inscribe the name of the pensioner on the rolls, and to pay to the time of the semi-annual payment, if the claimant should be still living, and, if not, then up to the day of his death. So the cashiers of the several branches might have performed the same duties with the consent of the bank; and we find that, under the direction of the Secretary of the Treasury, the business of this agency, so far as regards the pension act of the 15th of May, 1828, has been conducted through the cashier of the Branch Bank of the United States at Washington. The error to which we have referred admits a construction which would deny the liability of the institution whose capital is bound for the safety of the pension fund. It would divide that liability among the presidents of the branches, who never gave bonds for the money, and whose personal responsibility would, if the opinion we controvert were sound, furnish the only security for the safety of the millions which have been intrusted to the bank on the credit of its whole capital. It is the more objectionable as it would strengthen the untenable position that the pension agent of this Government, accountable now for the payment of more than twenty-three thousand pensioners, is, and ever has been, a creature of the Executive, and not the delegated agent of Congress.

In the opinion of the committee there can be no greater error on this subject, than to suppose that it is through the mere exercise of Executive authority that the bank has become the legal agent for the payment of pension money. "It took," says the Attorney General, "the agency from the commissioners of loans by substitution in their stead; and those commissioners derived it from an Executive regulation." But the substitution was by act of Congress. In addition to those parts of the act of the 3d of March, 1817, to which we have referred for the

purpose of showing this, the third section of the same act directs "that it shall be the duty of the Secretary of the Treasury to notify the president of the Bank of the United States that the duties now performed by the commissioners of loans will be transferred to the Bank of the United States, and he shall direct the commissioners of loans, *and the agents for military pensions where there is no commissioner*, respectively, in the several States, to deliver to the president of the Bank of the United States, or to the president of a branch thereof, or to the president of such State bank as the Bank of the United States may employ, on such day or days as he may designate, the register, and all the records and papers of their respective offices; and it shall be the duty of the said commissioners of loans and agents for pensioners to comply with the said direction, and also to take duplicate receipts for the delivery of the papers and records herein described, one of which shall be transmitted, without delay, to the Secretary of the Treasury: *Provided*, That this act shall not be construed to extend to any agent for military pensions in any State where there is no bank established by law." The fourth section of the act abolishes the offices of commissioners of loans upon the delivery of the said records and papers. The office of commissioner of loans was created by the act of Congress "making provision for the debt of the United States," approved on the 4th of August, 1790. The commissioner of each State was thereby enjoined, among other things, to pay the interest on the loan proposed by that act as the same should become due, and generally to observe and perform such directions and regulations as should be prescribed to him by the Secretary of the Treasury *touching the execution of his office*. The twelfth section of the same act compels the said commissioners to give bonds, with one or more sureties, conditioned for their good behaviour in their said offices, respectively. Whether these officers were originally bound by Executive regulation only, or by express act of Congress, to discharge the duty of agent for the payment of military pensions, is of no consequence, if it be conceded, as it is, that such was a part of their duties. The president of the bank and the Attorney General, in their several communications referred to the committee, alike admit the well-known fact that these commissioners were employed as agents of the Government in the payment of pensions, and that they continued to be so employed until after the organization of the Bank of the United States. The act passed on the 24th of April, 1816, authorizes the Secretary for the Department of War "to appoint some fit and proper person in those States and Territories where there is no commissioner of loans, and also in the District of Maine, to perform the duties in those States and Territories, and in said District, respectively, relating to pensions and pensioners, which are now required of said commissioners in their respective States." This act recognises the duties of pension agents as pertaining to these commissioners before the passage of the act of the 3d of March, 1817, and restricts the Secretary's power of appointment to places where there is no commissioner of loans. Since the Bank of the United States has been substituted in lieu of these commissioners, by what statute is it that the Secretary is authorized to appoint pension agents in any State or Territory where the bank, or one of its branches, has been established?

The Secretary of War, in his correspondence with the president of the bank, (to be found in the reports of committees of the House of Representatives at the first session of the 22d Congress, No. 460, page 489,) so late as the first of March, 1832, admits that, "from a careful examination of the laws of Congress, he is satisfied that the Department of War is not warranted in appointing a pension agent in any State or Territory where the United States Bank has established one of its branches." It is not intimated to us that the Secretary has ever changed this opinion. It was not hastily formed. It was not given by him without the existence of an important case, requiring him to decide with caution. It was the judgment of the very officer who has, by his order, attempted to remove and to annihilate the pension agency established by Congress, and who has constituted fifteen other agencies, entirely independent of each other, to supply its place. No matter who may desire to take the responsibility of the act which the Secretary of War has committed, we can look only to him as properly answerable for it; and it is therefore that we refer particularly to his opinion, which, under any other circumstances, would have come to us as the conviction of an able expositor of the law, but would have been entitled only to the same weight which we should have accorded to any other man of equal learning and ability. To enable the Senate to see under what circumstances this opinion was given, let us recur to a part of the history of the bank. It appears by the document last referred to, that, in the summer of 1829, an attempt was made by the Hon. John H. Eaton, then Secretary of War, to remove the pension agency from the Branch Bank of the United States at Portsmouth, in New Hampshire, to a State bank at Concord, in that State, and that the authority of the Secretary to effect this was then denied by the Bank of the United States. The Commissioner of Pensions, in his letter to Mr. Mason, the president of the Branch Bank in New Hampshire, dated the 25th of August, 1829, says, that, "in changing the agency, the Secretary of War conceived himself authorized by law to do so, and was actuated by a regard to the interests of the pensioners, in wishing to have them paid in that part of the State where the greatest facilities are presented." If this were intended as an apology for the act of the then Secretary, it cannot avail in the case now before us, because the agent selected by the present Secretary is the Commercial Bank at *Portsmouth*, the very place where the Branch Bank of the United States is established. But whatever may have been the object of this part of the correspondence, the rest of the letter of the Commissioner waives all further discussion of the subject, revokes the order for the change of the agency, and directs the Branch Bank of the United States to resume its duties. Two year afterwards, there was a similar attempt "with a view to accommodate the pensioners," again; and a transfer was actually made of a considerable part of the pension list from the office at New York to the Mechanics and Farmers' Bank in the city of Albany. The Bank of the United States strongly remonstrated against the measure as illegal and unwarrantable. A change of the heads of Departments having occurred after the alteration of the agency, the bank appealed to the present head of the Department of War, in a letter dated the 10th of August, 1831, and the subject was held under advisement by that officer until the 1st of March, 1832, a period of more than six months, at the expiration of which the Secretary writes to the president of the bank, as before stated, his entire satisfaction, from a careful examination of the laws of Congress, that the Department is not warranted in appointing a pension agent. "Hence," says the Secretary, "the agent at Albany has been notified that his appointment, by this Department, has from this day ceased." And so the matter ended.

This opinion of the Secretary is approved and adopted by the committee. It was formed in the spirit which should direct all the operations of a Government recognising nothing arbitrary or oppressive in its character; and we think that the retraction of error, when thus convinced of it, after mature deliberation, was honorable as well as just in the officer. To support him in the result at which he had arrived, he saw among the acts of Congress, which he professes carefully to have examined, that an act of Congress had been at all times held neces-

sary to create a new pension agency; that, in pursuance of this construction, on the 3d of March, 1819, an act passed, by which the Secretary of War was "authorized to appoint an agent, in addition to the one already appointed in the State of Tennessee, for the purpose of paying pensioners of the United States residing in East Tennessee:" that, again, on the 20th of May, 1826, the Secretary of War was "authorized to establish a pension agency at Pittsburg, in the State of Pennsylvania, for the payment of pensioners of the United States resident in that vicinity;" and that the Secretary of the Treasury was, by the same act, authorized to make the necessary arrangements with the Bank of the United States for paying the before-mentioned pensioners at the office of discount and deposite of said bank at Pittsburg. He knew that the Secretary of War could not exercise the power of appointing such agents as his own *deputies*; that he was not the paymaster of pensions; and that, long before the charter of the bank, while the agency remained in the hands of the commissioners of loans, Congress found it necessary, by the act of the 7th of January, 1809, to give even him authority to act as agent in a few cases, by enacting "that every pension, or arrearage of pension, due to any officer or soldier residing in either of the United States or the Territories thereof, in which there has not been appointed an agent for the payment of pensions, shall be paid at the seat of the Government of the United States by the Secretary for the War Department, and that the name of the pensioner shall, on his application to the Secretary of War, be transferred from the books of the State in which it was originally registered, to a register to be opened for that purpose at the War office of the United States." The act of Congress of the 24th of April, 1816, authorizing the Secretary of War to appoint pension agents where there was no commissioner of loans, was also before him, to satisfy him that, as well before as after the bank had assumed the agency, no such agent could be created by the head of his Department. He took no distinction between the act of the 15th of May, 1828, and any other pension law of this Government; but, with a full knowledge of all the views of his predecessors—with all the books and accounts of his office before him, exhibiting the construction which had ever been given to the duties of the bank—with the aid of all the learning of the then Attorney General, if he chose to put it in requisition, he concurred in the result at which Mr. Binney, Mr. Sergeant, and Mr. Mason, had before arrived—that new pension agents could not be appointed by the Department, except in the single class of cases in which such appointments were expressly authorized by the act of 1816.

As to the expediency of the law which was thus considered settled by the Secretary, whether we consider the importance of a permanent establishment of such an agency in reference to the chief object of its creation, which was the payment of pensioners in a sound currency, without charge to the Government, or in reference to the limitation it was supposed to have fixed for the exercise of executive power over this portion of the public treasure, we are convinced that it was such as highly to recommend it in its origin, and that it is yet such as to forbid any change of its provisions. At the time of the passage of the act of the 3d of March, 1817, the Government incurred great expense in the payment of salaries and clerk-hire, appertaining to the offices of commissioners of loans. The bank having assumed the duties of those officers, without charge on the Treasury for their performance, incurred a responsibility, the neglect or refusal to meet which subjected it to all the penal consequences of a violation of its charter. The pension agency is a duty imposed on the institution, onerous and expensive, which the president of the bank now informs us it is willing to be discharged from if Congress, the creator of that agency, will release it; and that it is a burden, and not a mere benefit to the institution, is satisfactorily established, not only by his declarations, but by the concurrent testimony of several of the local banks to which the public deposites have been recently removed. Thus, the president of the Mechanics' Bank at New York, in his letter to the Commissioner of the 27th of January last, complains: "The agency, as I learn, is exceedingly complicated in its details, requires considerable office room, the employment of at least three clerks, which must necessarily involve us in a very considerable extra expense. Why this bank should have been selected to perform this service, whilst the other selected banks here are exempt from the responsibility, labor and expense, is a matter of some surprise, particularly when it is known that we have not hitherto had a due proportion of the public deposites. Having assented, however, in our agreement with the Treasury, to perform the duties incidental to the agency, we cannot of course object to the execution of those duties, but must at the same time be permitted to say that an agency involving such great responsibility, arduous duties, and heavy expenses, should be borne in common by the three banks; or, if this should be considered impracticable, that the other two should at least bear a pro rata portion of the expenses."

In several instances presented by the correspondence between the Commissioner of Pensions and the presidents of the State banks which have been recently selected as banks of deposite, these officers have declined the agency, or refused to give bond for the performance of the duties. In some cases the local banking corporations are themselves made executive agents; in others the presidents of banks are selected, without any accountability on the part of the banks over which they preside. For the performance of this trust, before the change was made, the whole capital of the Bank of the United States was bound to this Government. The institution, by long practice, had become expert in the conduct of all the complicated details of the trust confided to it. It had reduced the whole business of the agency to a system which alike secured the interests of the Government, the pensioners, and its own stockholders. "We have no evidence," says the Commissioner, in a letter from the Pension office to the president of the Girard Bank in Philadelphia, of the 24th of February last, "that the United States Bank has ever lost a cent by paying pensions, although that institution and its branches have disbursed large sums for this office for seventeen years past." And while the bank was so well managing this interest for its own stockholders, we have never heard that at any time the Government found fault with its accounts, or that any revolutionary soldier, or other pensioner on the lists, was turned from its doors without receiving in hard dollars, or their full equivalent in value, the whole amount of the intended bounty of his country, unless the Executive department had previously interfered to arrest the performance of the duties of the corporation. In the judgment of your committee, this trust, for the performance of which the honor, faith, and best feelings of the country are enlisted, cannot be as well discharged by individual agents, or by State institutions which owe no responsibility to this Government, and which, finding no source of profit in the pension fund, already view it, and may soon treat it, as an encumbrance. Should they be all equally faithful with the Bank of the United States, can it be expected that fifteen new agents, acting independently of each other, can be equally skilful? Is it to be anticipated that they will all adopt the same guards both for public and private security? pursue the same mode of accounting and transacting the business which has been perfected by the Bank of the United States after seventeen years' experience, or maintain any one general system whatever to attain the same object? We think that as, by the new arrangement, different agents are selected to pay the pensioners under the act of the 7th of June, 1832, and

as the Bank of the United States is still to pay all pensions allowed by laws anterior to that date, there will be no longer any one system preserved in the pension agency of the Government; and that the confusion incident to this state of things will be an evil much to be regretted. We think, too, that, should Congress sanction the changes which have been made, it is by no means without the range of probability that, at no very distant period, and at some one of the numerous agencies recently created, those gallant defenders of their country, who have attracted the President's sympathies in the message before us, may sometimes receive their allowance in a depreciated currency. In the opinion of the committee, therefore, however willing the Bank of the United States may be to relinquish this agency by the permission of Congress, the object for which the trust was established requires that it should not be permitted to discharge itself from the obligations it incurred by the assumption of that trust. The policy of that limitation of the executive power over this portion of the public treasure, which was acknowledged by the Secretary of War, as we have stated it, is to the committee not less apparent. The permanent appointment of an agent not subject to removal at executive discretion, is important to secure a steady and punctual payment of the money upon which many of the pensioners depend for actual subsistence. To subject them to the inconvenience and loss arising from a change of the agency at every revolution of the political wheel, would be not only to embarrass and distress those who should meet with no obstacles in the receipt of the meed of their patriotism, but to add another stream to the swollen current of power which already threatens to deluge and destroy the best interests of the country.

The committee might here have rested on the Secretary's own view of the subject, but for the reasoning of the Attorney General contained in the opinion accompanying the President's message. This opinion appears to have been given, at the request of the President, one month after the order issued from the Department of War. Thus called upon either to justify or condemn a measure of the administration which had been previously adopted, the arguments of the Attorney General do not seem to us to occur with that view of the powers of the Department of War which the Secretary himself had formerly taken.

He introduces his principal argument with the assertion that all the pension laws up to the 3d of March, 1817, provided only for invalids; that the act of the 18th of 1818, which authorized the payment of pensions to certain indigent officers and soldiers of the Revolution, declared that they should be paid "in the same manner as pensions to invalids, who had been placed on the pension list, were then paid;" that similar clauses have been inserted in the various pension acts since passed, and he distinctly admits that the payments under all those acts are to be made through the agency of the bank, *except so far as Congress shall have authorized*, by special laws, the employment of other agents. He then denies to the acts of 1828 and 1832 the character of pension laws; on which last position his chief argument is rested. Before we proceed to examine this, we will notice the remarks with which it was thus introduced, and the inferences which the reasoner intended, as we presume, should be drawn from them.

It is not true, that all the pension laws up to the 3d of March, 1817, provided only for invalids; because, among other laws which might be mentioned, the first section of the act of the 16th of April, 1816, directing half pay for five years for the widows and children of officers and soldiers who died in the service during the last war, is not a law providing only for invalids. This act, which, it is to be observed, does not designate the agent to pay the pensions allowed by the section referred to, was extended by the act of the 3d of March, 1817, to the widows and children of the soldiers of the militia, volunteers, rangers, and sea-fencibles. The second section of the act of 16th April, 1816, providing half pay for five years to the children of such as died in service in the last war on the relinquishment of bounty lands, directs "the payment thereof to be made when and where other *military pensions* are or shall be paid." It will be seen, then, that the argument which would exclude from the agency of the bank all pensioners except invalids, and those who are by express act to be paid in the same manner as invalids, would have excluded pensioners under the first sections of the act of the 16th of April, 1816, and of the act to amend that act, passed on the 3d of March, 1817. But the agency of the bank was always extended to them. They were indisputably entitled to the character of pension laws, the payments under which, by the admissions of the Attorney General, must be made through the agency of the bank, except so far as Congress shall have authorized, by special laws, the employment of other agents. The committee do not consider the bank as deriving its agency under the pension act of the 18th of March, 1818, or any other act, from the mere direction that payment shall be made "in the same *manner* as pensions to invalids are now paid." The mode of payment might well be, and indeed frequently is, prescribed in an act recognising the existence of an established paymaster. Had there been no other authority from Congress than is to be found in this clause, to constitute the agency of the bank, the Secretary, so far from admitting, as he did on the 1st of March, 1832, that the Department was not warranted in appointing a pension agent where the bank or one of its branches was established, would probably have informed the president of the bank that different agents could pay the pensioners "in the same manner," and that the new mode of paying invalids could be as strictly observed by the Mechanics and Farmers' Bank at Albany, as by the Branch Bank of the United States there established.

The committee is now prepared to examine the principal argument advanced by the Attorney General, and most relied upon by him to justify the order of the Secretary. He maintains that the act of the 15th of May, 1828, "for the relief of certain officers and soldiers of the army of the Revolution," and the supplement thereto of the 7th of June, 1832, are not pension laws, that they have no connexion whatever with the general system of pension laws, but are the commencement of another and an entirely different system. He asserts that these are laws in which the "pay" mentioned is to be understood as contradistinguished from "pensions," and which carefully avoid any such expression as might connect them with the system of pensions.

The committee have investigated this question, and they find that both Houses of Congress, the President, the Secretary himself, the Commissioner of Pensions, the Secretary of the Treasury, and indeed every department of the Government having occasion to administer or to refer to these acts, have, from their very origin, invariably treated them as pension laws until the present controversy arose; while the committee do also find the character of pension acts indelibly impressed on the laws themselves by the hands that framed them,

By reference to the history of the debates at the time of the passage of these laws, it appears that each of them was advocated and opposed in both Houses of Congress as pension laws. In principle, these pensions are founded on the same revolutionary services with those conferred by the act of 1818, which is admitted to be a pension law. The acts of 1828 and 1832 both contain a perpetual appropriation; but it seems that special appropriations to meet the expenses of the act of 1828 were annually made,

and continued until the year 1833, and that each of those appropriations is for "revolutionary pensions." By the act of the 12th of February, 1828, there was appropriated "for the revolutionary pensioners of the United States," (meaning those embraced by the act of 1818,) $564,236. The pension act of 1828 having passed on the 15th of May, a new appropriation to meet the expenses incurred by it was made on the 24th of May, "for the pensions to the revolutionary pensioners of the United States, $200,000." The appropriation of the 2d of March, 1833, recognises the claimants, under both the acts of 1828 and 1832, as pensioners, in the following words: "For the revolutionary pensioners under the several acts prior to that of 7th June, 1832, $624,685." The same appropriation act of 1833, which, it is to be observed, was passed at the second session of the twenty-second Congress, and by the framers of the act of 1832, whose cotemporaneous exposition of that law ought to have some weight in deciding on its character, contains another appropriation, in the following words: "For additional temporary clerk-hire during the years 1832 and 1833, in order to carry into effect the act of 7th June, 1832, *granting revolutionary pensions*, $24,039." At the same session, and on the same day, a joint resolution was passed by both Houses in relation to the act of the 7th of June, 1832, which ordains that "in the execution of that act, whenever it shall be made to appear that any applicant for a *pension under said act* entered the army of the Revolution in pursuance of a contract with the Government made previous to the 11th of April, 1783, and continued in service until after that period, it shall be the duty of the Secretary of War to compute the period of any such applicant's service, from the time he thus entered the army, and until the date of the definitive treaty of peace, *and to allow him a pension accordingly.*" If it be insisted that the very Congress which made the law misunderstood its character, let us next inquire how the President himself has always understood it until his recent message. The act of the 2d of March, 1833, provides "that a Commissioner of Pensions shall be appointed by the President and Senate. He shall execute, under the directions of the Secretary of War, such duties in *relation to the various pension laws as may be prescribed by the President of the United States.*" It appears by the statement of the Attorney General that, immediately after the passage of the law of 1832, the President assigned the execution of it to the Commissioner of Pensions, to whom the same duty has been ever since prescribed by the President. The President must, therefore, have always regarded the act as a pension law. If it be not of this character, the order of the Commissioner of the 2d of January, 1834, is illegal, as the President was only authorized by it to prescribe the duties of the Commissioner "in relation to pension laws." The President signed and approved both the act and the joint resolution of the 2d of March, 1833, before referred to, in which this act of June 7, 1832, is over and over again characterized as a pension law in express terms. We know that his message now expresses his entire concurrence in the views of the Attorney General, but may he not be understood as referring rather to that officer's general conclusions than to all his particular arguments? We incline to that interpretation of the message in reference to this part of the subject, more especially because we find that nearly all the members of his cabinet, as well as the Commissioner of Pensions, have always styled and treated this act of the 7th of June, 1832, as a pension law.

To begin with the Secretary of War, under whose direction the Commissioner of Pensions has always acted in execution of the duties in relation to this law prescribed by the President. In the close of his annual report of the 29th November, 1833, accompanying the President's message, and which we presume must have met the approbation of the President, he states: "There have been presented for allowance, under the PENSION ACT of June 7, 1832, thirty thousand six hundred claims. The whole of these have been examined, and either admitted, rejected, or returned to the parties for supplementary action." "It is creditable to the industry and efficiency of the Pension office that such a mass of business should have been performed within the period which has elapsed since the passage of the above law." The Secretary, in a letter to the Commissioner, dated November 2, 1832, observes: "On consultation with the Attorney General, I have decided that the probate courts of Vermont are courts of record, within the meaning of the regulations prescribed by the Department for carrying into effect the act of *June 7, 1832, granting revolutionary pensions.*" In another letter to the same officer, dated February 21, 1833, the claim under this act is again characterized as a pension. The present Secretary of the Treasury, in his report on the finances of the 17th of December last, page 5, describes these claims as "revolutionary pensions under the act of June 7, 1832." In his account of the expenditures for 1833, they are included, with all others of the same character, under the designation of "pensions." The present Secretary of State, when Secretary of the Treasury, in his account of the expenditures for 1832, described them as "revolutionary pensions per act of 7th of June, 1832." The Commissioner of Pensions, in his report of the 27th of November last, gives us a "statement showing the number of persons that have been placed on the *pension* roll of the different States and Territories under the act of June 7, 1832;" also, "a statement showing the number of persons who have died since making application for *pensions* under the act of June 7, 1832;" also, "a statement showing the number of persons who have applied for *pensions* under the act of June 7, 1832;" also, "a statement showing the number who have relinquished *their pensions* under the act of March 18, 1818, and have been placed on the rolls under the act of June 7, 1832." And he concludes by informing us that there have been sent to the pension agents during the year past, "to pay *pensioners* under the act of June 7, 1832, $547,170 57." In all the letters of the Commissioner to the new pension agents, the law receives the same construction; and in the very order of the 2d of January last, which is the subject of examination, he assigns the reason that the selection of the local banks as the future places of deposite, render it necessary that those banks should "discharge the duties of *agent* for *paying pensions* under the act of June 7, 1832." He therefore directs the Bank of the United States "to cease paying *said pensioners.*"

It is relied upon by the Executive that the act of 1828, like that of 1832, uses the word "pay" instead of "pension;" so does the first section of the act of April 24, 1816, the claimants under which are admitted to the benefits of the pension agency, and have been always designated by the name of pensioners. In the opinion of the committee, the use of the word "pension" in a law is not essential to entitle it to the character of a pension law. Whether it be or be not entitled to that character, must depend on the general intent of the Legislature as collected from all its provisions. This, like other pension laws, provides that no person receiving any annuity or pension under a former law shall be entitled to its benefits, "unless he shall first relinquish his further claim to such pension." The construction given to this by the Department may be discovered in the declaration prescribed by it in order to obtain the benefit of the act; in which declaration the applicant is required to say, "he hereby relinquishes every claim whatever to a pension, *except the present.*" Like the other pension laws, it provides that "the pay allowed by it shall not be in any way transferable, or liable to attachment, levy, or seizure, by

any legal process whatever, but shall enure wholly to the *personal* benefit of the officer, non-commissioned officer, musician, or soldier, entitled to the same." If this were regarded by Congress as a law for the payment of an actual debt by instalments, and not a pension act, why was the debt secured against creditors? Why should the pay enure wholly to the personal benefit of the claimant, free and discharged from the ordinary operation of the law on other men to whom the public money is paid for a public debt? Was it ever heard before; can an instance be adduced from the annals of Congress, in which such a provision has been introduced to secure any mere creditor of the Government against the just claims of his own creditors? The fact is, that, by our laws, no pension is conferred except for services rendered. Congress does not grant pensions to court favorites, nor mere gratuities under any pretext. We understand the term "pension," as it is commonly defined, "an allowance for services rendered, to be paid at stated intervals." We are compelled to reject any construction of the law which places the services of the six-months militiaman, or of the Indian spy, under the act of 1832, above that of the regular soldier who served till the end of the war of the Revolution, and is entitled to be paid under the act of 1818. Both are, in a peculiar sense, the creditors of the nation; both are meritorious; but the character of a debt can surely not be conferred upon the claims of the former with more propriety than upon those of the latter.

It is to be observed that the opinion of the Attorney General appears to be at variance, on this subject, with that of his immediate predecessor, the honorable R. B. Taney, the present Secretary of the Treasury. Mr. Taney, in his reply of the 27th of October, 1832, to a question proposed by the present Secretary of War touching the execution of the act of 7th June, 1832, says: "It is not obligatory on the Secretary of War to issue a *new pension certificate* when the party has pledged it for a debt, and the creditor refuses to deliver it without payment. The law does not require the certificate, in such a case, to be renewed, &c. But as the law intended to prevent the *pensioner* from selling or mortgaging his *pension*, it would defeat its obvious policy if the creditor, by withholding his certificate, could deprive the party of his *pension*, and thereby compel him to appropriate a part of it to the payment of his debt. The act of the creditor, therefore, ought not to prevent the payment of the *pensioner;* and, if satisfactory proof is offered that the certificate is in the hands of the creditor or any other person, and that it has been demanded by the *pensioner*, and the delivery refused; and if sufficient evidence is also adduced of the identity of the applicant for the *pension*, I think he is entitled to payment." In the same letter, he also says: "the act of June 7th, 1832, *granting pensions for revolutionary services*, is not continued to resident American citizens. The first section gives the *pension*," &c. In an opinion given by Mr. Taney to the Secretary, dated May 18th, 1833, he observes that, "by a literal construction of the first section of the act of 1832, every officer who was entitled to a *pension* under the act of May 15th, 1828, would be excluded from a *pension* under the act of 1832. And if such a construction were adopted, an officer who had served to the end of the war as ensign, &c., would be excluded from a *pension* under the last-mentioned law. But, looking at the whole act, it appears that those who were on the *pension list* of 1828 were not excluded, &c. The third section of the law shows that it was not designed to exclude any of those who had pensions under other acts of Congress, where the *pensions of the act of* 1832 were more favorable to their interests. * * * * If the commissary, therefore, held no rank in the line, he would be entitled to *his pension*, because he was not provided for by the act of 1828. * * * * * * And as, in the case you state, the applicant was not entitled to *a pension* as commissary under the law of 1828, he is not excluded from a *pension* on account of services in that character under the act of 1832, and is entitled to the *pension* as commissary upon relinquishing his claim as ensign."

Among the documents referred to us, are the copies of two bonds which appear to have been taken from the agents at Cincinnati and Portland, (Maine,)—the one dated the 13th, and the other the 20th of January last; each of which is expressly conditioned for the performance of the duties of agent for paying *pensions* under the act of Congress of June 7th, 1832. We know not that any others have been received by the Department; but in reference to these, independently of the fact that no law exists authorizing the Commissioner to take such securities, if the Attorney General's construction of the law be correct, the utility or value of the instruments may be questioned. We forbear, however, to express any opinion on that subject, or to swell this report with further extracts to prove the Executive construction of the law. Suffice it to say that, although the Attorney General so strongly maintains that the acts of 1828 and 1832 are to be distinguished from all pension acts, and that they are not entitled to the name of pension laws, we find that no other officer of this Government who has had occasion to consider the subject, has ever adopted his construction. He may, we think, support a claim, as the discoverer of this distinction, without a competitor.

It remains for the committee to examine another argument advanced in defence of the Secretary's order, founded on the provision in the acts of the 15th of May, 1828, and the 7th of June, 1832, relative to the manner of paying the pensions they allow. The clause referred to in the first act is in these words: "That the pay allowed by this act shall, *under the direction of the Secretary of the Treasury*, be paid to the officers or soldiers entitled thereto, or to their authorized attorney, *at such places and days as said Secretary may direct.*" The act of 1832 contains a similar provision; and the resolution of Congress of the 28th June, 1832, transfers to the Secretary of War all the duties which devolved upon the Secretary of the Treasury by virtue of that act. The money appropriated by the act was, in pursuance of this provision, drawn from the Treasury by warrant, and, *under the direction* of the Secretary of War, deposited in the bank as the established pension agent of this Government. It is now contended that the Secretary may of right, without the aid of Congress, change the pension agency, so far as regards the pensions under this last act, from the bank which has exercised that agency since the law was passed, or, in other words, that he may appoint fifteen other banks or private individuals to do the same offices which that bank has hitherto performed. The case presented is, that of two agents, each appointed by Congress, the one to act under the direction of the other. But the agent appointed to direct, claims the power to annihilate the other, and to substitute in lieu of it fifteen new agents, to do the same duties. The committee propose to inquire from what part of the clause in question such a power is to be derived.

Is it from the words, "the pay allowed shall, under the direction of the Secretary, be paid to the person entitled thereto?"

Or is it to be found in the remaining part of the sentence, which orders the payment to be made "at such days and places as the Secretary may direct?"

It is admitted by both parties, as we have already stated, that the agency of the bank under the laws up to the 3d of March, 1817, inclusive, can be changed only by act of Congress. The act of that date commands the bank to observe and conform to the directions which have been, or *may thereafter be*, prescribed by the Secretary of the Treasury, with the approbation of the President

of the United States, touching the execution of its duties as commissioner of loans. The clause in question, in the act of June 7th, 1832, is of similar import, though it subjects the agent in the execution of the duties to the direction of a different executive officer. We have not heard that it was ever contended that these words in the act of the 3d of March, 1817, gave the Executive such a power as is claimed for a similar provision in the act of 7th June, 1832. The commissioners of loans were bound to pay, *under the direction of the Secretary*, before the bank charter; yet the power to abolish their agency was never claimed by any Executive, nor the power to substitute a pension agent to act in conjunction with them. The Secretary, by the act of April 24, 1816, was authorized only to appoint pension agents in those States and Territories "where there is no commissioner of loans." When this act, and the other acts before referred to, authorizing him to appoint pension agents in Pittsburg and Tennessee were passed, was it imagined that any Executive department had the power now claimed by virtue of the injunction to be found in our laws on all pension agents, compelling them, in the execution of their duties, to act under the direction of an Executive officer? If these words give such a power, we see not why the agency of the Commissioner of Pensions, who is, as we have seen, bound to execute his duties under the direction of the Secretary of War, might not be abolished by the Secretary, and fifteen other commissioners appointed by him to execute the same duties. Scarce two years have elapsed since a bill passed the other House to authorize the Secretary to appoint a pension agent in Alabama. This bill, we know, was defeated in the Senate, because it was thought to be altogether inexpedient to interfere with the duties of the bank. The same bill is now before Congress again. Until the order of the Secretary of War was issued, its friends as well as its enemies thought the power to change or abolish an agency was not involved in the power to direct the agent, or to check him in the exercise of his duties, but resided only in Congress. If we are mistaken in this—if indeed the power to destroy is incident to the power to direct—we do not perceive why so much of this act of the 3d of March, 1817, as abolishes the offices of commissioners of loans was not rejected as useless by the Congress and President who chartered the bank; nor why the high executive power now contended for was not exercised in that day by the same summary mode of changing the pension agency.

The concluding part of the clause in question, which orders the payment of these pensions to *be made at "such days and places* as the Secretary may direct," whether considered separately, or in connexion with the preceding part of the section, cannot, in the judgment of the committee, be held as furnishing any authority whatever to abolish the agency of the bank, and substitute other agents in lieu of it. The power conferred by these words is strictly supervisory, and that, too, of a qualified character. The superintending agent derives authority from these words, not to appoint the person to pay, but merely to direct the time and place of payment. With an existing pension agent established by Congress, and recognised as such by the Government for more than forty years, the Secretary herein is simply authorized to fix the time and place at which it shall act. In the case of a law ordering money to be levied and collected under the direction of a court at such times and places as the court shall direct, no one would infer the existence of a power in the court to remove the marshal, or to substitute another person unknown to the laws to execute his duties. The office of the ministerial agent in that case being created by act of Congress, no other office could be created to supersede it except by the same power. When Congress directs money to be paid by the Secretary of the Treasury out of any money in the Treasury not otherwise appropriated, the Treasurer himself, though not mentioned in the act of appropriation, must disburse the money on a proper warrant; because, as in the case under consideration, he is the paying agent of the Government created by act of Congress, though bound to pay under the direction of a superintending officer: and, in this instance, the power to appoint twenty new Treasurers might with as much propriety be claimed for the Secretary of the Treasury, as the power to make new pension agents is now claimed for the Secretary of War.

The distinction between places and persons is essential to a correct understanding of the subject. The right to direct the places where a pension shall be paid is, as we apprehend, perfectly consistent with the existence of an established agency to perform that duty at that place when directed; and we hold that the mere authority to give or countermand an order to pay, can confer no power to destroy the paymaster, or to make a new one. If the paying agent is, as the adverse argument presupposes, a mere deputy of the Secretary, removable at Executive pleasure, then the millions which are directed to be disbursed to pay pensions are liable to be placed in the hands of individuals without any security; and we have already seen how the work under this new construction of the law is progressing. We do not believe that Congress has so far neglected its duty to the country. We think that the clause reserving to the Secretary the right to direct the times and places of payments is the same in substance with that to be found in the act establishing commissioners of loans, and the act transferring their duties to the bank; in both of which it is provided that one of the heads of Departments shall direct, *not the agent to execute*, but merely "touching the *execution* of his duties."

The Attorney General finds in the conduct of the bank, in reference to the order of the Secretary to surrender the pension fund, a breach of trust, and a violation of duty to the Government. We think, on the contrary, that had it surrendered that fund on such an order, without the consent of Congress, it could not have escaped the imputation of having sought a recharter by a dereliction of its trusts, and the exhibition of a spirit of subserviency to the Executive will. The President, while he concurs in the views of the Attorney General, denounces the bank as an "irresponsible money corporation." In what sense is it irresponsible? Its charter provides "that whenever a committee of either House of Congress shall find and report, or the President of the United States shall have *reason to believe*, that the charter has been violated, it may be lawful for Congress to direct, *or the President to order*, a scire facias to be sued out, calling on the corporation to show cause wherefore the charter shall not be declared forfeited." The responsibility of the bank to the President himself, as well as to Congress, in case any provision in the charter has been violated, appears to us to be quite as satisfactory as that of any officer of this Government. The 17th section of the charter also provides that the corporation shall not, at any time, refuse payment of any money received upon deposite, and that, if it do neglect or refuse to pay on demand any money received on deposite to the person or persons *entitled to receive the same*, such person shall be entitled to recover interest on the money until the same shall be fully paid, at the rate of twelve per cent. from the time of the demand. If the President thinks he has reason to believe that this provision has been violated, the remedy is in his own hands, and appears to us to be ample. If it were not sufficient, Congress, on that fact being shown, has the power reserved by the charter to supply any deficiency by farther legislation. We do not understand that the ability of the bank to respond to any pecuniary demand upon it by the Government for public

dues is questioned; and as an engine of power, with all the guards placed around it by the charter, we think it is far less to be dreaded than twenty State banks, affiliated by their allegiance to a common master, and strengthened not only by the funds of the pensioners, but by all the money in the Treasury.

We are also told that the refusal of the bank to deliver over the books and papers belonging to this agency is a still more palpable breach of the duty which results from what the Attorney General terms the subordination of the agent to his principal. If the Secretary, instead of Congress or the Government, were the principal, and the bank merely the Secretary's deputy, the right of the former to the custody of these books and papers before a final settlement of the accounts, might well be questioned by the latter. But when we repudiate the whole doctrine which subjects the pension fund to be disposed of at the will of the Executive, and acknowledge Congress as the power which created the agency, this Executive pretension becomes absolutely preposterous. We have shown that the act transferring the duties of the commissioners of loans to the Bank of the United States, and abolishing their offices, directs them and the agents for military pensions, where there is no such commissioner, to deliver to the bank "the register, and all the records and papers of their respective offices," and that, "upon the delivery of the records and papers, the office of the commissioners shall be abolished." The books and papers of the pension agents of that day were, therefore, deposited in the bank, by virtue of a positive statute, and neither the Congress that passed the bank charter, nor the President who approved it, seems to have supposed that it could obtain them in any other way. What was considered in 1817 as no fit subject for mere Executive regulation, does not now appear otherwise to the committee than it did to the framers of the charter. Without legislative interposition, the books and papers necessary for the transaction of the business of the pension agent should remain in the bank; and neither Executive denunciation, nor any mere desire of the corporation to get rid of a troublesome and expensive duty, should induce it to desert the important trust which has been confided to it by the Legislature of the country.

We understand the Attorney General as claiming for the Department of War the custody of these books and papers during the interval between the semi-annual payments, even though it should be obliged to return them again to the bank when the day of payment shall arrive. The order of the Secretary was for a permanent and absolute transfer of the books and papers; and, in justice to the directors of the bank, the committee feel bound to say that the attempt of the Attorney General to put them in the wrong, by placing the order of the Secretary, which they have refused to obey, on the basis of a mere request for the temporary use of the papers until the day of semi-annual payments should return, is not warranted by the facts, and is so far an abandonment of the real ground of the controversy.

We cannot take leave of the opinion of the Attorney General without farther commentary on his concluding observations. He contends not only that the books and papers, but the funds also in the pension agency, may be removed for temporary purposes. "They (the books and papers) are," says he, "exclusively the property of the *Government*." Hence he contends that "the Government" is entitled to them during the interval between the semi-annual payments. "The same remark," he adds, "may also be applied to the moneys of the agency, which *the Government* is not bound to leave on deposite in the bank, even if it were admitted that the law has imposed on it the duty of employing the bank to pay them out. The conduct of the bank, regarding it in this light, and independently of every other objection, appears to me to be wholly indefensible."

The President, in the message, says, "I add my entire concurrence in the views he (the Attorney General, in this opinion,) has taken."

What is meant by "the Government?" If this expression has here any meaning, it is confined to the Executive department alone. No other branch of the Government had any thing to do with the change of the pension agency; and in a spirit of candor towards the officer who made this report at the request of the President, we have combated his argument as we felt bound to consider he intended it should be understood. We have, therefore, answered his reasoning in relation to the books and papers of the agency as if he had said that the Executive or the Department of War was entitled to their custody. But this is not "the Government." Ours is a Government of laws. To say that the President and Congress can only, by law, reclaim the agency; that none but the Government, in the proper signification of the word, is entitled to the books and papers, as well as the funds in the hands of the agent it has created, when it may demand them according to the forms of law, is to say just what we have contended for, and to admit what we understand the Attorney General to deny. If the Attorney General supposes that the President is the Government, or that any Executive Department is the Government of this country, it is time that his reading of the constitution should be examined, especially by Congress.

The power to remove the public deposites from the bank has never been confided to the Secretary of War. The bank charter enacts that the deposites shall remain in the bank, unless the Secretary of the Treasury shall otherwise direct. The duties of the latter, under the act of the 7th of June, 1832, which devolved on the former officer by virtue of the joint resolution of the 28th of June, 1832, do not embrace the superintendence of the system of finance, but the direction of the times and places of paying one class of pensioners. When the Secretary of the Treasury shall direct the surrender of these funds, after his warrant for them has been once issued with all the forms of law; after they have been paid out of the Treasury on that warrant into the bank, and there placed to the credit of the pension fund, it will be time to consider whether his direction ought to be obeyed; and whenever it shall be decided by the Secretary of the Treasury that the pension fund is still in the Treasury, and he shall attempt to make pension agencies for Congress, that body will doubtless give the proper attention to the subject. But if the power is now claimed to be in the Secretary of War (in virtue of his right to direct the pension agent) to put the pension fund in his pocket when he pleases, or during the intervals between the semi-annual payments of pensioners, we find in the laws no warrant for such a pretension. The duties of the Secretary were intended to be auxiliary to those of the bank in the duty of paying pensions. Their co-ordinate powers are misunderstood when the former attempts to remove the latter, as his subordinate, at pleasure, or to assume the execution of those duties which Congress has confided to the latter alone.

It appears that, in the matter which has been referred to the committee, the bank has acted only on the defensive, and has done no more than is required of every trustee. It has assumed no attitude which ought to be considered as offensive to any department of the Government, but it has been faithful to its trust. In this country every man must exercise his own judgment in matters touching his rights and duties. This is incident to his right of self-defence. Had the President demanded of the bank their banking-house in Washington as a suitable place for the Treasury Department, after the late conflagration of the Treasury buildings, might not the bank have decided against the application without being censured for "sitting in judgment upon the legality of the acts of the constituted authorities?" May not the opinion of the corpo-

ration upon the construction of any law differ from that of the executive officers of the United States? The citizens who subscribed for stock in this bank have not thereby lost the right to sit in judgment, in this sense, on the acts and conduct of any man or set of men in this nation who, in their honest judgment, may invade their privileges, or seek to deprive them of an opportunity of discharging their duties. The case of a corporation is like that of every individual in this respect. The President has no right to take private property for public use from any man without his consent, or the consent of his representatives, and compensation to him.

Now, if the President demand the land of a citizen for a light-house, or any other public work, may not the owner consider and decide for himself the question of title, without being reproached for a "usurpation of the judicial power?" Must he who says to an executive officer, "I contend for my property, and have decided that, before I surrender to you what I believe to be mine, I will defend myself in the courts of law," be therefore denounced as usurping judicial power? The bank has done no more to occasion such a denunciation. It has respectfully considered, and fully replied to the Executive mandate. Its answer is, that it considers itself bound by the laws of Congress not to surrender the pension agency without the consent of Congress. It professes its perfect willingness to yield the trust if Congress will release it. Without that release, it must, in self-defence, abide a suit in the courts, if the Executive choose to go to law. It has not relied alone on its own judgment. In doubt of its own opinion, it has left the question to eminent counsel, and, in perfect frankness, it has communicated to the Executive officer their views and arguments. This is what the President terms "usurping judicial power," and prescribing to the Executive department the manner in which it shall execute the trust confided to it by law. This is called "checking and controlling the acts of the public servants by an irresponsible money corporation;" and we are gravely told that, if this is to be tolerated, "the whole frame of our Government is changed, and we have established a power in the bank above what we derive from the people." It appears to the committee that the Executive in this case assumes to itself the judicial power, for the very reason that it denies to the bank the right to inquire into its own duties. It sets up a claim which it will not suffer the bank to deny or doubt. It demands an immediate surrender on its own judgment, and necessarily refuses to the agent of the Government the right to invoke the decision of the courts for its protection. Such pretensions are new in the history of Executive power in this nation. They are unsuited to the genius of the Government under which we live; and whenever they shall so prevail, that an American citizen shall not dare to dispute with an executive officer upon any question touching his right to either property, character, or liberty, then, indeed, in the language of the President, "the whole frame of our Government will be changed," and, no matter what may be its name, it will be a hateful despotism.

The President complains that the pensioners will suffer by the conduct of the bank. From a part of the correspondence submitted to us, it would appear that the new pension agents have, in some instances at least, been paying their claims. But if they are indeed sufferers—if delays and embarrassments have been incurred by the gallant defenders of their country in the receipt of the debt which the gratitude of the nation has awarded to them, and which, in many instances, is necessary for their subsistence and comfort in their declining years, it is plain that all those delays and embarrassments have been occasioned solely by an illegal order emanating from the Executive, and commanding the bank "to cease paying the pensions."

The best mode of exhibiting Executive sympathy for the soldiers of the Revolution is not in publicly deploring their unhappy fate and their distressed condition, but in rescinding the order which prohibits the bank from paying them their dues. Until this be done, the committee is compelled to acquit the bank, when thus arraigned before them on a charge of cruelty to the revolutionary soldiers.

In conclusion, the committee recommend for the adoption of the Senate the following resolution, and pray to be discharged from the further consideration of the subject:

Resolved, That the Department of War is not warranted in appointing pension agents in any State or Territory where the Bank of the United States, or one of its branches, has been established.

House of Representatives, *February* 11, 1834.

The Committee of Ways and Means, to which was referred the message of the President of the United States, of the 4th of February, 1834, with the accompanying documents, communicating to Congress the refusal of the Bank of the United to deliver over, on the order of the Secretary of War, the books, papers, and funds connected with the disbursements to be made under the act of June 7, 1832, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolution," report:

That they have given to the subject all the consideration which its importance demands, as well from its intrinsic character as from the class of most meritorious persons whose interests may be affected by the delay which may take place in the payment of the sums respectively due to them, in consequence of the refusal of the Bank of the United States to deliver over the funds heretofore provided by law for their payment, together with the books and papers connected with its disbursement.

The bank, by the appointment of the Secretary of War, has heretofore been the disbursing agent of the Government, under the act of June 7, 1832, "for the relief of certain surviving officers and soldiers of the Revolution." In ordinary circumstances, all disbursing officers are responsible for the faithful performance of the duty assigned them, and are removable by the Executive. This control over them has been deemed essential to the correct performance of their duty, as well as to the just security of the public interests. The bank, however, under the act of June 7, 1832, claims to be the disbursing officer of the Government, independent of the appointment of the Executive, to hold the office by law, and to be beyond the power of removal by the Executive authority. Such a claim, to be supported, should be clearly established, as it is at variance with the general principles of the constitution and laws.

The committee, on an examination of the documents accompanying the President's message, find that an order was given by the Commissioner of Pensions, which order was authorized by the Secretary of War, for removing from the Bank of the United States and its branches to the local banks of deposite, at places where such local banks had been selected, the books, papers, and funds relating to the execution of the act of June 7, 1832. With this requisition the bank has declined a compliance, on the ground that the bank is constituted by law the agent for making payments under the act of 1832, and that the Secretary of War has consequently no right to transfer these duties to any other agent.

The question is, therefore, one of authority between one of the Departments of the Government and the Bank of the United States, in which the Bank has undertaken to retain the money and other property of the Government, until some measure, legislative or judicial, can be adopted, whereby the authority of the Executive over the public money and property, and the right claimed by the bank to retain them, can be determined, and provision made for their ultimate disposition.

The committee are of opinion that the bank has taken a position, and set up a claim to the possession of the funds, books, and papers in question, which cannot be supported. The opinion of the Attorney General, communicated by the President, contains a history of the agency of the bank in the payment of pensions, and of claims under the act of 1832, and also a full, and, as the committee think, a correct view of the law of the case. To this opinion they refer, as greatly diminishing their labors on this part of the subject It is conceded that, by various legislative enactments, direct and indirect, the bank was constituted the disbursing agent for paying invalid and revolutionary pensioners prior to and under the act of March 18, 1818. The Secretary of War has given no directions for the change of this agency, and the bank remains as it was—the disbursing officer for the payment of pensions under these laws; but the case is otherwise under the act of June 7, 1832. Under that act the bank was not, by the *terms* or any fair construction of the law, constituted the disbursing agent for paying the annuities which it granted. That act is supplementary to the act "for the relief of certain officers and soldiers of the army of the Revolution," passed May 15, 1828. These two acts form parts of the same system. The act of 1832 has reference to that of 1828, and the phraseology of both is nearly identical. They provide for making payments to the surviving officers and soldiers of the revolutionary army in consideration of services, and the sums to be paid are denominated *pay;* and before any payments can be made under either of these laws, if the persons claiming their benefit are already receiving *pensions* under former laws, such *pensions* are required to be relinquished. No wounds are required to entitle a man to this "*monthly pay,*" as they are, agreeably to the system of the invalid pension laws; nor is poverty essential to this aid, as it is under the acts of March 18, 1818, and the act of May 1, 1820, supplementary thereto. But the whole claim seems to be placed on the ground of services, and, in consideration of them the "annuity" is given and received. The execution of both these acts was confided to the Secretary of the Treasury, and that officer was authorized to cause the payments to be made *at such times and places* as he thought proper. The act of 1828 provides "that the *pay* allowed by this act shall, under the direction of the Secretary of the Treasury, be paid to the officer or soldier entitled thereto. or to their authorized attorney, *at such places and days as said Secretary may direct.*" The act of 1832 provides "that *the pay allowed by this act* shall, under the direction of the Secretary of the Treasury, be paid to the officer, non-commissioned officer, musician, or private entitled thereto, or his or their authorized attorney, *at such places and times as the Secretary of the Treasury may direct.*" And both acts contain a permanent appropriation of the sums necessary to carry them into effect. The Secretary of the Treasury, under the authority given by the act of 1828, has caused the payments to be made at the Treasury directly to the individuals entitled. The bank never had any agency whatever under this law, nor is it known to the committee that they ever interposed any claim to make these payments. It is very clear that if the payments under the act of 1828 could be made at the Treasury, or at such other *place* as the Secretary of the Treasury might direct, without the intervention of the bank as the disbursing agent, so could the payments under the act of 1832 be made in like manner, had the execution of the act of 1832 remained with the Secretary of the Treasury. The execution of this act was, however, by a joint resolution of June 28, 1832, devolved upon the Secretary of War, and the duties which the act required to be performed by the Secretary of the Treasury were "transferred to the Secretary of War." The Secretary of War was, by this resolution, clothed with the same authority to make payments to those entitled under the act of 1832, at such times and places as he might direct, as was previously possessed by the Secretary of the Treasury. In whatever mode the payments could have been made by the Treasury Department previous to the adoption of the resolution of June 28, 1832, in the same mode they can be made at the War Department after the adoption of that resolution. The whole business then was to be done under the "direction" of the Secretary of War, and the payments made at such "*times and places*" as he may direct. It will not be disputed that the words of the law confer upon the Secretary of War a general supervisory authority over the payments to be made under it. They authorize the payments to be made whensoever, wheresoever, and by whomsoever, the Secretary may direct. If the Secretary were to direct the payments to be made at the Treasury, (as by law he has a clear right to do,) it surely cannot be maintained that an agent of the bank must stand by to receive the money, and pass it over to those entitled. It surely cannot be contended that the money is not properly disbursed unless it first pass through the hands of the bank. If the Secretary of War thinks the convenience of those entitled to pay under this act, or the public interests require that places of payment should be designated where there are no branches of the United States Bank, may the bank, by refusing to establish an agency at such places, (and there is no law requiring them to do so,) defeat the contemplated arrangement? It appears to the committee that the power confided to the Secretary of War to designate the *times* and *places* of payment necessarily includes the authority to select the persons who are to act as agents in making the payments, as, without such authority, the power to direct the *times* and *places* of payment would be wholly nugatory.

The committee are of opinion that upon no correct principles can the bank claim the legal right to make these payments, either in their character of commissioners of loans, or as disbursing agents of the Government. The charter does not confer on the bank the right of being in all cases the agent for the payment of pensions. It reserves to Congress the power to impose on the bank the duty which was before performed by the commissioners of loans; and as those commissioners, at the date of the bank charter, performed the duties of agents for paying the invalid pensions, the reservation in the charter authorized Congress to impose that duty on the bank. But Congress may or may not, at its own pleasure, exercise the power it has thus reserved. The bank can have no power to demand its exercise. The charter, therefore, in this respect, confers no right on the bank; it merely reserves to Congress the power to impose a duty, and the duty of the bank in this particular cannot be more extensive than the laws passed subsequently to the charter shall be found to require of it.

The act of the 3d of March, 1817, made it the duty of the bank to pay as agent the pensions which, before that time, were paid by the commissioners of loans; but it does not require that all pensions afterwards created shall be paid in like manner by the bank. Its provisions are expressly confined to the duties which were then performed by the commissioners of loans, and no allusion is made in the law to pensions which may afterwards be created.

The act of 1818 directs the pensions which it gave to be paid in the same manner as pensions to invalids had before that time been paid; and it is by virtue of this provision that the bank pays the pensioners under this law. But this act, like that of 1817, makes no general provision on the subject of paying pensions. It directs the manner in which the particular pensions it created should be paid, but it does nothing more.

From this statement, it appears that the duty of pension agent has been imposed on the bank by law, in those cases where the pensions were given by the act of 1818,

or by some previous act of Congress. But it is not the duty of the bank to act as pension agent in relation to pensions created since the law of 1818, unless some subsequent act of Congress has imposed that duty on it.

If, then, it be assumed that the payments under the act of 1832 are to be regarded as pensions, yet the bank would not be bound to take upon itself that duty, unless it was required of it by act of Congress. For it is not enough that new pensions are created; there must also be some law directing the bank to act as agent in paying them, otherwise the bank can be nothing more than a voluntary agent, and at liberty, therefore, to surrender their trust whenever they think proper.

But there is no pretence that the law or resolution of 1832 contains any direction that the bank should act as agent in paying these claims. There is no reference in the law to any former act of Congress from which such an intention can be inferred, even by the most strained and forced construction. And, therefore, if these *payments* be considered *pensions*, in the legal sense in which the word is used in the acts of Congress, yet the duty of paying them has not been imposed on the bank, and they were not bound to perform the duty, unless they supposed it to be to their interest to do so.

There is another point of view in which the subject presents itself, and which it is believed is still more important, and that is, the attitude assumed by the bank. They do not claim the books, papers, and funds, as belonging to them; these are confessedly the property of the Government. But they claim the right to retain the possession of them, not from any interest which they have in them, for this is disavowed, but merely that they may take care that the laws be faithfully executed. This is certainly a novel pretension, and it is believed is now for the first time asserted—by a corporation, at least, in the United States. By the constitution, the execution of the laws is confided to the Executive.

The allegation of the bank, as contained in the letter of the President of the bank, of January 23, 1834, that "it is no justification to the bank to obey any other authority," (than Congress,) "for, if it pays money, or transfers money, without the authority of Congress, its accounts may be disallowed by the accounting officers," does not, in the opinion of the committee, deserve to be seriously considered or refuted. It is impossible to conceive upon what grounds such an apprehension as is here pretended could be seriously entertained: for whatever authority the bank had to disburse the annuities under the act of June 7, 1832, was derived not from Congress, for the act directs the payments to be made "*under the direction of the Secretary*," but, from their appointment as paying agent, by the Secretary of War; and if he gave the authority, it would be strange, indeed, if he could not revoke it. The public money had been placed in the hands of the bank by the order of the Secretary of War; and if he makes that order, and directs the money to be returned to the Treasury, or transferred to other agents, it is absurd to suppose that the bank, by obeying, should be in any way embarrassed in the settlement of their accounts. There was not the slighest ground for such a belief, and it cannot therefore be urged as any extenuation or apology for the course of the bank.

In no view of the subject can the bank, in the opinion of the committee, rightfully retain possession of the money and property of the Government. If the law of 1832 had constituted the bank (which the committee do not concede, but on the contrary maintain it did not) the paying agent of the Government, it would not necessarily follow that they must keep possession of these books, papers, and funds. Many cases might be conceived in which it would be not only proper, but the duty of the Government, to resume the possession of them. The books and papers might be wanted for copying, examination, or correction, or other conceivable purposes. The money appropriated for these payments, might be accumulated in an unnecessary degree at a given point, and might be wanted elsewhere in consequence of a diminished supply at other "*places*" designated by the Secretary for the payments. But the ground taken by the bank excludes all possibility of the exercise of this supervisory regulation of the head of the Department, whose duty the law makes it to see that the "*pay*," allowed by the act, shall be made under his "*direction*," and at such "*times* and *places*" as he may designate. The bank in effect says, We have decided that we are the proper agents to make the payments, and, therefore, the Government shall in no case have any power to withdraw the property which it has heretofore placed in our possession. Such a principle, if applied to all other cases of disbursing officers, who may assume the ground that they have been illegally dealt with, would lead to consequences which do not require to be stated, and could not for a moment be tolerated.

If the bank, when the demand was made for the books, papers, and money of the Government, in its possession, had "protested," if they thought the demand illegal, and had then delivered them up, and had afterwards appealed to Congress or the judicial tribunals for such redress or decision as the nature of the case might call for, their position would have been far different from what it now is. Assuming to decide the law for themselves, and arrogating the power to see that the laws be faithfully executed, they assume a power heretofore unknown to our laws and institutions. Claiming to define their own legal rights, they have so far forgotten the rights of the public as to withhold vouchers and funds to which they can have no title.

It further appears to the committee that the change directed to be made by the Secretary of War was called for by the circumstances. It is understood that the change has been confined to a substitution of the local banks of deposite for the Bank of the United States and its branches, at those places where local banks of deposite have been selected. Where the public funds are yet deposited in the branches of the United States Bank, those branches are yet the agents for making the payments, by appointment of the Secretary of War, under the act of June 7, 1832. Where the change has been made, the business is to be done by the new agency, without any charge whatever to the Government.

The reason and propriety, therefore, of the measure are obvious. The object is to direct the banks holding the public money to pay out this money to persons claiming it under the act of June 7, 1832, instead of having the funds drawn from these banks, and placed in the United States Bank and its branches, for mere the purpose of doing what the former may do as well. To have continued the agency of the Bank of the United States in making these payments, when the public moneys were in other banks, would have been unnecessarily to put it in the power of the Bank of the United States, by means of the public funds, to draw large amounts of specie, from time to time, from the selected banks, to hoard in its own vaults, thereby to increase, for its own purposes, a needless and unjustifiable pressure on the people.

It remains to be considered what effect this unwarrantable act of the bank may have upon the future payments to be made to the officers and soldiers entitled to the benefits of the provisions of the act of 1832.

The committee called upon the Secretary of War for information on this point, and herewith submit the answer which has been received It appears that on the 1st of January last, the bank, as disbursing agent for the payment of claims under the act of June 7, 1832, held, of public moneys drawn from the Treasury for this object, the sum of $470,546 98. Since then, other pay-

ments to a comparatively small amount may have been mode, and it is possible that subsequent settlements may further reduce this balance. This sum had been regularly drawn from the Treasury by warrants in the usual way, and placed in the possession of the bank, to be disbursed. The act of 1832 makes a standing appropriation of the amount necessary to carry its provisions into effect. The bank, by withholding the sum which it has in possession, stands in the situation of any other defaulting disbursing agent, and a sum equal to that which it thus wrongfully retains, must be drawn from the Treasury, and applied to the payments, until the amount withheld by it shall be recovered. The detention of the books and papers by the bank will not necessarily postpone the payments until the possession of such books and papers may be recovered from the bank, but it will render it necessary for the Department of War to make out new lists of those entitled to pay, and there is no probability that this can be done sufficiently early to enable the payments under the act of June 7, 1832, to be made on the 4th of March next, especially at the distant agencies, agreeably to the established usage. The labor of preparing new lists and papers is understood to be great, and, with all the care that can be taken, there will be a liability to error, in many cases, until the present agents settle their accounts, resulting from the uncertainty of the periods to which the payments may have been made. But as no surviving claimants have been paid to a period later than the 4th of September last, all who are now living may be paid on the 4th of March, for the half year ending at that time.

If any inconvenience should be felt by any of those veterans of the Revolution, as the committee believe it will be by the delay which will take place in the payment of the next annuity due to them, it is to be attributed to the unjustifiable conduct of the bank in interposing to thwart the views of Government, in withholding from the officers of Government the public money and public property, to which they do not pretend to have any claim. The committee cannot condemn in terms too strong the conduct of the bank in this transaction. The bank withholds from the public service the large sum of four hundred and seventy thousand five hundred and forty-six dollars and ninety-eight cents, and thus puts the Government to the inconvenience of applying other funds to the objects for which the sum they retain was appropriated and drawn from the Treasury.

So far as respects the delivery of the public property in their possession, they refuse to obey the instructions issued; but, so far as respects the termination of the duty of making payments, they yield a ready acquiescence, and yet there is the same authority for the one order as for the other. But in the former case they have a direct pecuniary interest in the course they pursue; in the latter, their interest is not at stake, and no one suffers but the Government, which must advance other funds to supply the place of those illegally retained by the bank, and the veterans of the Revolution, who must wait for the the amount due to them, until the necessary documents can be prepared to justify their payment.

The existing laws are, in the opinion of the committee, adequate to enable the Government to effect a recovery from the bank of its money and property; and, therefore, they propose no measure of legislation in this respect. Neither is any further appropriation required to supply the place of the sum thus retained by the bank, for, as has been already remarked, the act of June 7, 1832, makes a standing appropriation of the sums necessary to carry its provisions into effect. If the bank, or any other disbursing agent for the payment of these claims, become defaulters, and refuse to pay over the public moneys placed in their hands to make such payments, the meritorious class of citizens provided for by the act cannot, on that account, be deprived of their rights, though some of them may experience delay in receiving the sums due to them, as in this case they probably will, in consequence of the conduct of the bank in withholding the public books and papers, by which the exact amount of their claim is to be ascertained.

The committee deem the course of the bank such, in this case, as to justify the repeal of the several provisions constituting them pension agents, under the invalid acts and the acts of 1818 and 1820. There seems to be no propriety in the separation of these duties, but as one may be conveniently performed by the agents selected by the Secretary of War, so may the other. There seems to be a propriety, too, in confiding to a responsible officer of the Government the duty of making these payments, rather than leave it in the hands of an irresponsible corporation. They therefore recommend this course, and report a bill accordingly.

Department of War,
February 6, 1834.

Sir: I have the honor to reply, in part, to your letter of this date, by transmitting a report received from the Commissioner of Pensions.

A further statement, now in preparation by the Third Auditor, will be furnished as soon as possible. I will remark, however, that a similar paper was prepared and sent with the President's message, and may be found among those papers.

Very respectfully, I am, sir, your obedient servant,
LEW. CASS.

Hon. J. K. Polk,
House of Representatives.

War Department,
Pension Office, February 6, 1834.

Sir: In reply to the inquiry of the honorable J. K. Polk, I have the honor to make the following report:

The effect of the refusal of the United States Bank to surrender the possession of the books, papers, and funds, to meet payments under the act of June 7, 1832, will not be to postpone the payments until the books, &c. shall be recovered from the bank, but it will reduce this office to the necessity of making out new lists, which will consume so much time, that the lists will not be prepared sufficiently early to reach distant agencies by the 4th of next month, when the semi-annual payments should be made, in conformity with the practice which has heretofore existed. Funds can be drawn from the Treasury at any time for paying pensioners under the act of June 7, 1832, and placed in the hands of the newly-appointed agents. The funds now in the hands of the United States Bank and its branches, for paying pensioners under the act of 1832, were drawn from the Treasury by warrants under the standing appropriation which that law makes. I cannot furnish so particular a statement showing the amount of funds set apart for paying pensioners under this law as is desirable, but the Third Auditor can give such a statement, and I would respectfully suggest the propriety of requiring the necessary information from that officer.

I have the honor to be, &c.
J. L. EDWARDS.

P. S. It is proper for me to add, that we shall not be able to ascertain in many cases to what time the pensioners have been paid, until the former agents settle their accounts at the end of the first quarter of the present year; but as none have been paid to a period later than the 4th of last September, all who are now surviving may be paid on the 4th March, for the half year ending at that time. J. L. E.

Honorable Lewis Cass, *Secretary of War.*

The Secretary of War has the honor to enclose the statement prepared by the Third Auditor in relation to pension funds, which was promised to the honorable Mr. Polk, in a note of the 6 h instant.

War Department, *February* 7, 1834.

Treasury Department,
Third Auditor's office, 7th February, 1834.

Sir: I have the honor to hand you, enclosed, agreeably to your request, a copy of a "statement of balances on hand on the 1st January, 1834, on account of 'pensions under the act of 7th June, 1832,' as appears from the accounts of the agents, as far as they have been rendered to that date," the original of which was furnished to Mr. Edwards, Commissioner of Pensions, on the 3d instant, for the President of the United States.

It is proper to add, that two accounts were accidentally omitted in the statement above mentioned, viz.

Bank of the United States,	Washington city	$7,957 68
Do do	Portland, Maine	35,596 85

And since the statement was furnished, the account of the Bank of the United States at Boston has been received, exhibiting a balance on hand the 1st of January 1834, of $36,731 52.

The letter of the honorable J. K. Polk is herewith returned.

With great respect, your most obedient servant,
PETER HAGNER, *Auditor.*

Honorable Lewis Cass, *Secretary of War.*

Statement of balances on hand on the 1st of January, 1834, *on account of "pensions under the act of 7th June*, 1832," *as appears from the accounts of the agents, as far as they have been rendered to that date.*

Burlington, Vt., under act of 7th June, 1832,	$22,930 96
Charleston, S. Carolina - -	13,637 75
Nashville, Tennessee - - -	13,096 30
Baltimore, Maryland - - -	30,970 50
Cincinnati, Ohio - - -	42,819 13
Providence, Rhode Island - -	22,910 26
Hartford, Connecticut - - -	44,693 27
Lexington, Kentucky - - -	31,723 53
Corydon, Indiana - - -	8,947 13
Mobile, Alabama - - -	13,280 69
Utica, New York - - -	11,649 65
Savannah, Georgia - - -	12,792 25
Fayetteville, N. Carolina - -	24,749 26
Jonesborough, Tennessee - -	1,807 51
Richmond, Virginia - - -	41,585 24
Carmi, Illinois - - - -	7,492 52
Detroit, Michigan Territory - -	5,628 91
Newcastle, Delaware - - -	5,956 53
New Orleans, Louisiana, (to 4th December, 1833) - - - -	6,536 00
Buffalo, New York - - -	1,523 37

The foregoing accounts were received up to the 1st February; the following have since been received:

Knoxville, Tennessee - - -	4,674 67
Philadelphia, Pennsylvania - -	29,330 66
Portsmouth New Hampshire - -	27,555 48

The account of the agent at Boston, and the vouchers for payment of pensions for the third quarter of 1833, were received this morning. The agent states in his letter of the 29th ul imo that the abstract, &c. for the fourth quarter will soon be forwarded.

Treasury Department,
Third Auditor's office, February 3, 1834.
PETER HAGNER.

House of Representatives, *February* 18, 1834.

The minority of the Committee of Ways and Means, to which was referred the message of the President of the United States upon the refusal of the Bank of the United States to transfer the fund for paying pensions, and the books and papers connected therewith, to banks designated by the War Department, submit to the House the following reasons for not concurring in the general remarks of the committee, or in the bill reported by them to the House.

Whatever may be the inconveniences felt by the pensioners under the act of 7th June, 1832, in consequence of not receiving payment of their pensions from the Bank of the United States and its branches, it cannot be denied that these inconveniences primarily arise from the order given to the bank and its branches not to pay them. The Commissioner of Pensions, in his letter to the bank, dated 2d January, 1834, requires of the bank to "cease to pay said pensioners after the receipt thereof." The Secretary of War, in his letter of the 13th January, 1834, informs the president of the bank that the Commissioner of Pensions, in making the requisition referred to, acted in conformity to instructions given by him. The act of 7th June, 1832, as modified by the resolution of the 28th June, 1832, enacts that the payments allowed by the act shall be paid "under the direction of the Secretary of War." The direction to pay, whoever may be the lawful agent in paying, must therefore come from the Secretary of War, and his direction not to pay is consequently binding and obligatory upon the agent. The bank therefore acted in strict conformity to the law, when it determined to cease paying those pensions, "while the present injunction not to pay them exists;" and when the president of the bank, in his letter of the 23d January, 1834, communicated to the Department of War the intended compliance of the bank with the order not to pay, the Department was thereby apprized that it required nothing but a removal of the injunction to continue the payments by the bank, until the pension funds, deposited in its vaults, should be exhausted. The primary cause of inconvenience to the pensioners arises therefore from an order of the Department of War. It may be removed at any moment by rescinding that order. The Secretary is competent to remove it, without offending against the construction or asserted construction of any act of Congress whatever. The bank and its branches have at no time, in the course of their pension agency, done or omitted any thing in opposition to their duty in this behalf, of which the Department has complained. These duties have been performed punctually, regularly, and without the least expense to the public Treasury. If the Department of War deems the assertion of a power to appoint new pension agents to be of more importance than it is to pay the pensioners under the act of 7th June, 1832, immediately upon demand, and prefers to encounter, or that the pensioners shall encounter, the inconvenience of delay, rather than postpone the appointment of new pension agents even for a short time, it is a matter which the minority may personally regret, but it does not prove that the immediate payment of the pensioners is an object first in importance in the estimation of the Department. The Department prefers to delay the pensioners rather than to postpone, even for a few months, the exercise of its asserted power; and the bank has no option but to submit, nor is it justly exposed to censure for not resisting an authorized direction of the Department not to pay, even though it may cause inconvenience to the pensioners under the act of 1832.

After examining the general question presented by the message of the President, and the documents which it communicates to the House, the minority have been compelled to dissent from the report of the committee, for the following reasons:

1. Because they entertain the opinion that, in virtue of a power reserved, or understood to be reserved, to Congress in the bank charter, Congress have, by the act of

3d March, 1817, required of the bank and its branches to perform the duty of paying all pensions, then or thereafter to be granted by Congress; and that, without some new enactment as to the persons or agents to pay, the duty devolves upon the bank in the case of every pension, whatever may be the date of its grant, whether before or after the act above mentioned. They are of opinion that the requisition in that act was not only present, but prospective; and that the agency of the bank was not temporary or occasional, but will continue, by virtue of the original requisition, until Congress shall take it away.

2. Because the act of 7th June, 1832, is a pension law, not to be distinguished, in principle, from the act of 18th March, 1818, which is admitted to be so. It has been so expressly denominated in a resolution of Congress, which has become a part of the act of 7th June, 1832, as much as if originally constituting a section of it. It has been so called in an appropriation law, making provision for the expenses of its execution. It comes within the duties of the Commissioner of Pensions, only as a pension law. It has received that name in various communications from the Departments to this House. The bank and its branches have been called upon to make the payments under it in this character, and it is only in this character that the Department had a right so to call upon the bank. It is a pension law in reason, spirit, and denomination, and has hitherto been so in execution.

3. Because, such being the agency of the bank, and such the character of the law, the Secretary of War had no authority to appoint an agent for paying the pensions under this act, in any State where the bank or any of its branches was located; and an order to the bank to transfer the pension books and to pay the pension funds to an agent illegally appointed, and to take *his receipt* for the same, was an order which the bank could not have complied with, without a violation of law, and also a responsibility for the breach of duty.

4. Because the removal of the pension funds from the Bank of the United States is a violation of the charter of the bank, which is entitled to the custody of these public deposites until they are duly disbursed to the pensioners. The agency thrown upon the bank, by the act of 3d March, 1817, was a consequence of the position which Congress had given to the bank by its charter, in regard to the public deposites. It was because the bank was entitled to possess them, that it was appointed to perform the duties of commissioners of loans and pension agents, in disbursing moneys connected with these duties. The bank holds the balances of the pension funds as moneys of the United States, appropriated to this object. The removal of the moneys from the bank is, therefore, a removal of the moneys of the United States from the custody of the bank; and if, as the minority believe, the removal of other public moneys from the bank by the Secretary of the Treasury was unwarranted by law, and a violation of the charter, there is at least equal cause for holding that it would be against law, and in violation of the charter, to remove them by authority of the Secretary of War, who has no power whatever over the deposites.

5. Because the attempted removal of these funds in the month of January, 1834, when the public distress was extreme, by derangements already caused by the removal of the deposites, necessarily tended to aggravate that distress by increasing those derangements, and will continue to increase them precisely in the ratio in which Congress shall by law sustain the change in the pension agency.

6. Because, finally, the control of the public treasure, which, so far as the removal of the deposites has been already effected, is in a condition unknown to the constitution and the laws, and dangerous to both, will, by the passage of the proposed bill, be given, to an additional extent, into the hands of the Executive, or of agents appointed by the Executive, and thus greatly magnify a danger already much too great for the security and welfare of the country.

On these heads of objection the minority submit to the House a statement of the reasons which have influenced their judgment.

1. By an act of Congress passed 3d of March, 1817, the Bank of the United States was required, in conformity with a power reserved to Congress in the fifteenth section of the charter, to do and perform the several duties of commissioners of loans for the several States. The terms of the enactment are these: "The Bank of the United States and its several branches shall be, and *they are hereby, required* to do and perform the several duties of commissioners of loans for the several States." The duties of commissioners of loans, in virtue of regulations prescribed by the President of the United States, at that time comprehended, in addition to the loan office business, the payment of pensions. This fact does not appear to be questioned by any one, and it is distinctly admitted by the Attorney General of the United States, in his opinion of the 4th February, 1834, annexed to the message of the President. "In the mean time," says the Attorney General, "the President of the United States, in pursuance of the authority vested in him by some of the first laws, had directed that the several commissioners of loans in those States where such officers existed, should be employed as agents of the Government in the payment of pensions, and they continued to be so employed until after the organization of the Bank of the United States."

The duty thus assigned to the commissioners of loans became a general duty of their office, not requiring a fresh assignment to them as often as a new pension was created or granted, but constituting them, in the language of the Attorney General, "agents of the Government in the payment of pensions," and casting upon them the performance of the duties of such an agency in relation to the pensions from time to time granted by Congress, unless there should be an enactment by the Legislature to the contrary. Their duty as pension agents embraced the payment of every new pension granted by Congress, as much as their duty of commissioners of loans embraced the transfers, payment of interest, and reimbursement of the principal of new loans, unless there was an enactment assigning that duty, or the authority to assign it, to some other person. They became the general pension agents of the United States in all cases in which some other agency was not expressly created, and the duty of their office expanded from time to time with the new pensions created by law, so as to comprehend them without any fresh enactment by the Legislature, unless the contrary was expressly prescribed.

This duty was assigned for the future as well as for the time then present, by the express language of the act. In performing the "several duties of commissioners of loans for the several States," the act directs that the bank and its branches "shall observe and conform to the directions which have been, or *may hereafter be*, prescribed by the Secretary of the Treasury, with the approbation of the President of the United States, touching the execution of the duties aforesaid." They were consequently to perform future duties under future directions; and the provision was indispensable, because, by the eleventh section of the same act, the office of commissioner of loans was abolished, and there remained no agency but that of the bank to discharge the duties thereafter to arise in regard either to loans or to pensions. The office of commissioner of loans was a subsisting agency, extending from time to time, without special enactment, to duties of the like kind as they should arise. The agency of the bank was thoroughly substituted for it in degree as well as in kind.

The duty of the commissioners of loans, in regard to the payment of pensions, was, at the time of the bank

charter, so fully settled and established by the regulations and practice of Government, that it required the special act of 24th April, 1816, to authorize the Secretary of War to appoint a person to perform the duty relating to pensions, in those States and Territories where there was no commissioner of loans. They were understood to have that agency universally, by virtue of regulations of the President, authorized by law, and they embraced the whole duty of the pension agency, generally and prospectively, subject, of course, to the power of Congress.

The manner of paying the pensioners appears to have been by placing their names on the lists or registers made out by the Secretary of War, and assigned to the particular State where the pensioner resided, with the amounts and times of payment indicated thereon, according to the rate of the pension, and the date of its commencement: which registers or lists became the guide of the commissioners of loans or pension agents, in the discharge of their duties. This practice is adverted to in the second and fourth sections of the act of 23d March, 1792, in the act of 7th June, 1794, and in the act of 20th April, 1796, as well as in other acts.

When the act of 3d March, 1817, was passed, casting upon the bank and its branches the duties of commissioners of loans, it made the necessary enactment to transfer to the bank and its branches all the papers and books of the pension agency. The third section enacts "that it shall be the duty of the Secretary of the Treasury to notify the president of the Bank of the United States that the duties now performed by the commissioners of loans will be transferred to the Bank of the United States, and he shall direct the commissioners of loans, and the agent for military pensions where there is no commissioner, respectively in the several States, to deliver to the president of the Bank of the United States, &c., the register, and all the records and papers of their respective offices; and it shall be the duty of commissioners of loans and agents of pensions to comply with the said directions, &c.: provided, that this act shall not extend to any agent for military pensions in any State where there is no bank established by law;" and thus the Bank of the United States became fully clothed with the obligation of paying pensions, in the same general manner with the commissioners of loans; and while the Secretary of War continued to exercise the power of fixing the times and places of payment, by the lists and the directions connected therewith, the duty of the bank and its branches, being the same in regard to pensions as that of the commissioners of loans, bound them to make the payments, and made them the agents for making the payments, in all cases in which some other agency was not authorized by law. It was not necessary, in any new pension act, to devolve the duty of payment upon the bank and its branches by fresh enactment, any more than it was necessary to devolve upon them, by fresh enactment, the duties of commissioners of loans in regard to new loans. They were agents under a general appointment and requisition to pay all pensions, existing or future, unless Congress should direct the contrary.

Since the act of 3d March, 1817, two loans have been made by authority of Congress, one for three millions, under the act of 15th May, 1820, and another of five millions, under the act of 3d March, 1821, at five per cent. The minority have examined those acts, and do not find a single section in either of them, which makes it the duty of the bank to pay the interest, reimburse the principal, or perform any act in regard to those loans; and yet it is notorious that they have performed them all, by virtue of the original requisition in the act of 3d March, 1817. Each of the acts contains a provision that "the stock thereby created shall be transferable in the same manner as is provided by law for the transfer of the public debt;" and it may be supposed that this enactment was intended to extend to the new loans the provisions in regard to transferring stock, contained in the second section of the act of 3d March, 1817. But this is not so. The transferibility mentioned in the acts of 1820 and 1821, is that of the stock from owner to owner, upon the books of the Treasury, or of the commissioners of loans, personally, or by attorney. The second section of the act of 3d March, 1817, only speaks of transfers from the books of one loan office to another, or from a loan office to the Treasury, and makes the provision, not to give the power to the bank, but to regulate its exercise by the presidents of the bank and branches, countersigned by the cashiers. The duty of the bank to pay the interest and principal of the loans of 1820 and 1821, under the direction of the Secretary, was a duty imposed by the previous act of 3d March, 1817.

The authority and duty of the bank and its branches to execute the office of commissioners of loans, in regard to loans made after March, 1817, and their authority and duty to pay military pensions granted after March, 1817, are therefore both derived from the same source, namely, from the act of that date. If an express provision or enactment was not necessary as to the new loans, neither was it as to the new pensions.

Such, in the opinion of the minority, have been the interpretation and practice in regard to pensions since the act of 1817. The bank has been from that time employed as the agent for paying pensions to the date of the act of 15th May, 1828, without any fresh enactment, as the minority suppose, to cast the duty upon them.

It seems to be the opinion of the committee that the commissioners of loans preformed only the duties of paying *invalid pensions*, and that unless Congress had cast upon the bank the duty of paying pensions granted by the act of 18th March, 1818, the bank could not have performed them. It is accordingly supposed that the duty was so cast upon the bank by the 2d section of that act, which declares that the pensions thereby created "shall be paid in the same manner as pensions to invalids who have been placed on the pension list are now paid." But there are two answers to this suggestion: first, that if the act of 3d May, 1817, did not impose upon the bank and its branches the duty of paying subsequent pensions, Congress would not, because they could not lawfully have assigned this duty to the bank by the act of 18th March, 1818; and secondly, that even if *invalid pensions* were the only pensions paid by the commissioners of loans at or before that time, which is not admitted, that description not being mentioned in the act of 1817, but *military pensions*, still the performance of the *general* duty was required of them by that act, and not merely the duty of paying particular existing pensions: and the act of March, 1818, did not mean, by the clause referred to, to impose a new duty upon the bank, but left the duty of executing that act to remain as it was cast upon them by the act of 1817.

The question is, whether the words of the charter, *the several duties of commissioners of loans*," meant the specific duties *then* performed, or also duties of the like kind in regard to all future loans and pensions. If the former alone were intended, Congress could not subsequently extend them. If the latter, then Congress did execute their whole power by the act of 3d March, 1817, in requiring the bank once, and for all, to perform the duties which the charter authorized them to require. The import of the clause in the act of 18th March, 1818, is, in the apprehension of the minority, mistaken, if it is supposed to have been inserted to authorize the same persons to pay the pensions under that act who paid the invalid pensions. The *manner* of payment may in some sense comprehend the person who pays, as well as the details of payment in point of *form*, *time*, and *place*; but it more properly comprehends these details, and was in-

tended to direct the Secretary of War to order the payment upon the same principle as to time, place, and form, which, under the regulations of the President, had originally governed that Department. If the word *manner* was also intended to comprehend the persons or agents to pay, it was surplusage, that being a matter already appointed and regulated by the act of 31 March, 1817. This is made evident by the course of legislation many years before the charter of the bank.

Precisely the same direction was given by the act of 20th April, 1796, in regard to certain invalid pensions, when the commissioners of loans were in existence, and when, by appointment of the President, they performed the duties of the pension agency. It was not intended by that act, and by the language directing the *manner* in which the invalid pensions should be paid, to point out the persons or agents who were to pay; for the commissioners were, without doubt, agents at that time for paying this very description of pensions; but it was meant to point out something else, namely, the source of payment, the Treasury, and the direction to place their names on the pension list, and to have the time, place, amount, and details of payment so fixed and directed, as to guide the agent in performing his duty. In the act of 3d March, 1791, and 8th May, 1792, "payment out of the Treasury of the United States, under such regulations as the President of the United States may direct," was the language then used in regard to invalid pensions; but when the practice of pension lists became established, the language adopted by the act of 1796, and the subsequent acts, was used, not to indicate the agency, but to indicate the manner and details of payment, by the guidance of pension lists and other arrangements prepared and transmitted to the respective pension agents.

The minority of the committee have given more attention to the point adverted to, because, notwithstanding the Attorney General has not, as far as they can perceive, resorted to the argument at all, the majority of the committee seem principally to have dwelt upon it, and to have placed the present question on the position, entirely new and never before suggested, that the bank could not be called upon by the Department of War to perform the duty of paying any pension except a pension granted at or before the act of 1817, or one of the same specific description, without a special enactment by Congress requiring the performance of that duty from them; and from thence they proceed to the inference that as neither the act of 15th May, 1828, nor that of 7th June, 1832, calls on the bank to pay the pensions granted by those acts respectively, that therefore the bank is not bound to pay them, nor can it pay them, by virtue of the duty imposed by the act of 3d March, 1817. The minority of the committee are compelled to reject the argument in all its parts. It is contrary to the construction and practice of the Department of War in regard to the act of June, 1832, as will be hereafter shown; and it so narrows down the obligation of the bank, that had the same construction been put forth by the bank at a time when it was consonant with the views of the administration that the bank should pay the pensions, it would probably have been regarded with as much resentment as has been shown to the recent act of the bank in acknowledging her duty, and in claiming to perform it. The opinion of the minority of the committee is, that the duty of the bank is co-extensive with the military pensions; that her authority to pay is co-extensive with her duty; and that, having been, by the act of 1817, required to perform that duty generally and without limitation, she is bound to perform it until Congress by enactment shall commit it to some other person.

II. The question which next presents itself for consideration is, whether the act of 7th June, 1832, is such an act as that the bank was bound to make the payments directed by it.

It must now be conceded to the bank, that up to the act of 7th June, 1832, there existed no law of Congress to warrant an appointment by the Secretary of War of an agent for paying pensions in any State or Territory where the United States Bank or any of its branches was established, and that the bank and its branches were the only agents for that purpose.

In the year 1829, the then Secretary of War asserted the contrary doctrine with the utmost decision, and the bank was assailed by the then commencing cry of opposition, because she did not immediately yield to it. The bank refused to yield, and persisted in her opposition to the mandate of the War Department to transfer the books, papers, and funds in the New Hampshire branch to a special pension agent in New Hampshire, as she has now refused to transfer the books and funds to the deposite banks. Another special agent in Albany was subsequently appointed by the same Department, under the same construction, which the bank in like manner refused to acknowledge, with a similar exposure to the reproaches of those whom her opposition disconcerted. It must be conceded that thus far the bank was right, and that the construction formerly asserted by the Department was wrong. The present Secretary of War, in a letter to the president of the bank, dated the 1st March, 1832, says: "I am satisfied, from a careful examination of the laws of Congress, that this Department *is not warranted in appointing a pension agent in any State or Territory where the United States Bank has established one of its branches*. Hence the agent at Albany has been notified that his appointment by this Department has this day ceased." This opinion is expressed in the most general and unlimited terms. It denies the power in the Department of War, altogether, and without exception. The reason of the opinion can have been no other than that the bank and her branches themselves held the appointment of pension agent, and, consequently, occupied the whole subject of pension agency in every State and Territory in which they were located, so that nothing was left to the Secretary of War; and if this be correct, the ground of controversy is reduced to a very small point. The question is, whether the act of 7th June, 1832, gives to the Secretary of War the power which no former law had given, and takes from the bank the obligation of performing a duty from which no former law had relieved her.

The view which the president of the bank has presented to the Secretary of War, seems to be the following: That the bank and its branches are bound by law to perform the duty of paying military pensions, unless Congress explicitly relieves them of the duty; that the act of 7th June, 1832, is a military pension law within the scope of their agency; that it has been so treated and regarded in the proceedings of Congress and of the Department of War; that the books and funds which they have been required by the Commissioner of Pensions to pay and deliver to the deposite banks, were placed in their hands expressly to pay the pensions under the act of 7th June, 1832; that the Secretary of War has not, under this act, any more than he had at the date of his letter of 1st March, 1832, authority to appoint an agent to pay pensions in any State or Territory where the bank or one of its branches is located; and, if he has not, that a transfer and payment by the bank to a person or bank appointed without authority, is illegal, and at the risk and responsibility of the Bank of the United States. It is precisely the former question applied to the act of June, 1832, after that act had been for a year and more treated in all respects, by all parties, as if it were subject to the same rule as the act of 1818.

The first inquiry is, whether the act of 7th June, 1832, is a military pension law. If it is, the remarks already submitted to the House show the opinion of the minority that it is the duty of the bank to pay those pensions, un-

less the same or some other act discharges the bank from this duty.

What is a pension, "*properly speaking*," and what is a payment which "merely bears some analogy to a pension," does not appear to be very precisely defined in the Attorney General's opinion, although he suggests the distinction. Before an argument is adopted, which turns upon a distinctive difference between a pension and a payment analogous to a pension, it would seem necessary to point out the specific characters of a pension, that the characteristics of the payments under the act of 7th June, 1832, may be tested by them. The minority have not been able to discern that this is done in the report of the committee, or in the opinion to which it refers. The title of the act of 1832 will, it is thought, be deemed a very insufficient guide in ascertaining the nature of the payment directed by the enacting clauses. The words "pay" and "payment" are equally insufficient, for *pension* is *pay*, and an annual *pension* is an annual *payment*. Whether *pay* is a *pension*, is therefore not to be settled by the word payment, since every pension, if paid, is a payment. It is necessary to go further to establish the distinction; and yet the minority are unable to discover that this has been done.

If the use of the very word *pension*, as descriptive of the payments under this act, settles that they are pensions, then Congress have settled it, by an act which both the Attorney General and the committee appear to have overlooked. But a joint resolution approved by the President on the 2d March, 1833, the same day on which the office of Commissioner of Pensions was created, Congress resolved as follows: "That in the execution of the act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolution, approved June the 7th, 1832, whenever it shall be made to appear that any applicant for a *pension under said act* entered the army of the Revolution, in pursuance of a contract with the Government previous to the 11th of April, 1783, and continued in service until after that period, it shall be the duty of the Secretary of War to compute the period of any such applicant's service from the time he then entered the army, and until the definitive treaty of peace, and to allow him a *pension* accordingly." As the language of the Legislature must be considered as the highest propriety of speech, in a case in which the very question concerns the character of a payment directed by them, this denomination shows that the payments ordered by the act of 1832 are *pensions*, properly speaking, and neither more nor less than *pensions*.

The same language is used in the act of the same date, making appropriations for the civil and diplomatic expenses of Government for the year 1833. "For additional or temporary clerk hire during the years 1832 and 1833, in order to carry into effect the act of June 7, 1832, granting *revolutionary pensions*, 24,039 dollars."

It is by the last-mentioned act that the office of Commissioner of Pensions was erected. The enactment of the law is, that "he shall execute, under the direction of the Secretary of War, such duties in relation to the *various pension laws*, as may be prescribed by the President of the United States."

The Secretary of War, in his letter to the president of the bank, dated January 13, 1834, to justify the direction by the Commissioner to transfer the funds, and to cease paying the pensions, says, that the office of Commissioner of Pensions is established by law, and he is required to "execute, under the direction of the Secretary of War, such duties in relation to the various *pension laws*, as may be prescribed by the President of the United States;" and he says so with great propriety. The act of March 2, 1833, which erects this office, defines its powers or duties, as may be seen above, precisely in the terms which the Secretary of War has cited in his letter, and it is believed there is no other act which enlarges them.

The official functions of the Commissioner are therefore limited to the performance of duties under the *pension laws*; and if the act of 7th June, 1832, is not, *properly speaking*, a pension law, the Commissioner of Pensions has nothing to do with the payments under that act.

So also, in the account of the receipts and expenditures of the United States for the year 1832, the same language is used. Among the expenditures under the head of military establishment, is the following: "*Revolutionary pensions per act of 7th* June, 1832, $355,686 33."

In like manner, in the report of the Secretary of War to the President, dated the 29th November, 1833, the Secretary says that "there have been presented for allowance, *under the pension act of June* 7, 1832, 30,600 claims:" and in the report of the Commissioner of Pensions, appended to the Secretary's report, the Commissioner says that "statement E exhibits the number of deaths of *pensioners under the act of 7th June*, 1832." "Paper marked F furnishes a brief abstract of the number who have applied for *pensions under the act of 7th June*, 1832." "There have been sent to the *pension agents* during the year past, *to pay pensioners under the act of 7th June*, 1832, $3,547,170 57."

In the same language, the Secretary of the Treasury, in his annual report on the state of the finances, of 17th December, 1833, includes the payments authorized by the act of 7th June, 1832, under the term *pensions*; and in the statement F, appended thereto, which presents the details of expenditures referred to in his general statement, he includes among the expenditures for the military establishment for 1832, "*revolutionary pensions per act of 7th June*, 1832, $355,686 33;" and in statement I of the expenditures for the first three quarters of the year 1833, he includes "for *revolutionary pensions per act of 7th June*, 1832, $2,066,984 24;" and in the estimates for the year 1834, the Secretary gives for "*revolutionary pensions per act of 7th June*, 1832, including arrearages from 4th March, 1831, in cases in which payment has not been made, $3,000,000."

Finally, in the bond prescribed by the Commissioner of Pensions for the new agents appointed, in substitution of the bank, to make the payments under the act of 7th June, 1832, the payments and the persons entitled to them are respectively called *pensions* and *pensioners* throughout, and it is only for payments of this description that the bond has any legal validity.

If this united voice of both Houses of Congress, approved by the President in two instances, and therefore adopted by him; of the Secretary of War, the Secretary of the Treasury, the Commissioner of Pensions, and the Committee of Ways and Means, who reported the appropriation act and resolution of 2d March, 1833, to this House, do not show that the payments under the act of 7th June, 1832, are, properly speaking, *pensions*, it must be admitted that there has been an extraordinary concert in the use of improper language. The minority are of opinion that there has been no such impropriety, as will be seen by a reference to the nature or real character of these payments.

The differences, as the Attorney General apprehends them, between a pension and a payment, under that act, will now be considered. The statement of them is introduced with a distinct admission by the Attorney General that the execution of the act of 7th June, 1832, "was, immediately after its passage, assigned to the Pension office, and that, until the recent order of the Secretary of War, the *general pension agents* had been employed to make payments under it." This is a contemporary interpretation, asserting both the *general agency* and its application to the act, which is not without its influence in deciding upon the alleged distinction.

The first alleged difference is, that the act of 7th June, 1832, instead of purporting to be supplementary to the

pension laws, or any of them, is declared by its *title* to be supplementary to the act of 15th May, 1828, for the relief of certain officers and soldiers of the army of the Revolution. The first section, it is said, also refers to that law, and the whole act is evidently a *mere extension of principle* established by the act of 1828.

The title is undoubtedly what the Attorney General states it to be; but even conceding, for the purpose of this inquiry, that the act of 1828 is not a pension law, which is by no means admitted, it is not conceded that the whole act of 1832 is evidently a mere extension of the principle established by the act of 1828; and this is the material consideration. The contrary is believed to be the case, and to be very clearly so.

The act of 1828, though, to some extent, a bounty or gratuity to the officers and soldiers embraced by it, is founded, in regard to both, upon two resolutions of Congress, of the 21st October, 1780, and the 15th May, 1778; the former promising half pay to the officers, and the latter a reward of eighty dollars to the soldiers. These resolves or promises had not been performed, and the act of 1828 may be regarded as the payment of a debt contracted by these resolutions. It is not admitted, except for the purpose of the argument, that this circumstance prevents the payments under that act from being regarded as pensions: but if they are so, they are pensions founded in previous contract; and whether they are so or not, they are payments in satisfaction of a contract. It is certain that the payments of the annuites granted by that act were to be made by the Secretary of the Treasury, at such times and places as he should direct; and it is not denied, as no evidence to the contrary is in possession of the minority, that the Secretary of the Treasury did not pay them through the pension agents, but by the cashier of the Branch Bank in Washington, by drafts furnished to the respective officers and soldiers at the special direction of the Secretary. Whether this was not a violation of the pension agency law, need not now be examined, as it is not the question before the committee: it is sufficient that the course of the Treasury entirely justifies the remark in the letter of the president of the bank, that "the Secretary of the Treasury never appointed any agent, or directed any transfer of pension funds under the authority given by the act of 1828." The point under discussion in that letter was the authority of the Secretary of the Treasury to appoint a pension agent, and to transfer funds to him under the act; and it is certain that he never did so, if the cashier of the branch at Washington merely furnished drafts to the parties entitled, under special requisitions given by the Secretary. The Secretary paid them himself; though, whether he ought to have done so, instead of passing the fund to the regular pension agency, need not now be examined, as it is not the question under examination.

But the act of 1832 proceeds upon an entirely different principle from the act of 1828, and is not merely an extension of that principle. It is not, and it does not purport to be, founded in any contract, promise, or debt, or upon any agreement whatever by Congress to pay the parties any thing which they had not received already; on the contrary, the provision of the first section is an express exclusion from the benefit of the act of 7th June, 1832, of every officer or soldier to whom the promises contained in the resolve of the 15th May, 1778, and 21st October, 1780, applied. It is an act of pure bounty and gratuity, as much as any ever enacted by Congress, and it is distinguished by that circumstance from the act of 1828, as that act is distinguished by the contracts and promises to which it refers, from the act of 18th March, 1818. The principle of the acts of March, 1818, and June, 1832, is one and the same; for to say, as it is supposed the committee mean to say, that a gratuitous gift to one who is poor, and a gratuitous gift to one whether he is poor or not, raise a distinction in principle which affects the question of pension or no pension, is, in the apprehension of the minority, to state a distinction without a difference. It might as well be said that the distinction was founded on the different times of service, or on the difference between Continental and State troops, distinguishing the two acts, when neither the time nor the character of the service made the pension in either or in any case more or less than a gratuity.

It is the remark of the Attorney General, "that the officers and soldiers embraced within the provisions of the act of June, 1832, like those provided for in the act of 1828, are treated as having a claim on the *justice* of the nation, and not merely as objects of his bounty." If the Attorney General means, by the word *justice*, to signify that the persons to whom the act of 1832 gives an annuity, had a claim founded on promise or contract to receive something from the nation which they had not received, the minority are unable to see any thing like the evidence of such a claim in the act itself, or in the argument of the Attorney General. The act of 1832 does not include any description of persons with whom there existed an unperformed promise by Congress. The persons described in that act may have had a *just* claim, in a popular sense, but in no sense had they a claim in which the invalid pensioners had not such a claim, and a stronger one too. If revolutionary services, either in the continental line, or in the State troops, volunteers, or militia, for any term or terms, not less in the whole than six months, gave a claim in *justice* to the relief granted by the act of 1832, the pensioners under previous acts, on account of disability, partial or total, had also a claim in *justice* upon Congress to all the relief that has been granted to them by previous acts; for they not only served, but were disabled in service; and yet the relief granted to them is, in name and nature, a pension, and, in accurate language, a bounty, and merely a bounty. If a claim in *justice* means, in the argument of the Attorney General, any thing more than a strong claim to the bounty of the nation, what is the foundation of that further meaning, and whence is it derived? If a claim in justice is a claim in legal right, founded in promise or contract, there is no evidence whatever that the grantees under the act of 1832 had any such claim. If they had no such legal right, but their claim was addressed to a strong and proper feeling of gratitude, generosity, or policy, to assist and support the declining years and wasting strength of those who had rendered military service, even to a small extent, in the Revolution, it is great inaccuracy of language to say, in an argument which turns upon the distinction between a claim of justice and a claim upon gratitude, that these officers and soldiers were not regarded as merely objects of bounty, but as having a claim in justice. Every grant, even of bounty, must have some respect to the public merits and services, as well as to the necessities of the object; and if it has not, it must be regarded as an act of licentious expenditure, without justification. The extent of such merits and services does not change the nature of the bounty, though it may make its propriety more obvious. If the payment is due by contract, it is a debt, and its payment, or an equivalent, is due in justice. If it is not due by contract, if the party has received from the nation all that the nation promised him for the service, then he has no claim upon the justice of the nation; the justice of the nation is fully satisfied, and any further payment must be a mere bounty or gratuity. Such, and such only, is the nature of the payments under the act of 7th June, 1832. They are a mere bounty, and not the satisfaction of a claim in justice; and if bounty alone is pension, these payments are pensions in that sense. The minority, however, beg to be understood as not admitting that nothing can, properly speaking, be called a pension that has been granted in compliance with

a promise; or that a pension, properly speaking, must be a mere gratuity, without color of consideration or equivalent. They believe the contrary to be true, both in legal and in popular language; and that a pension may be the satisfaction of a contract, as well as the grant of a favor or benefaction; and this is strictly the case with the navy pensions which become due by contract.

Taking it, then, to have been sufficiently shown that the act of 7th June, 1832, is, properly speaking, a *pension law*, and, therefore, that the bank has been appointed, by Congress, the agent for paying the pensions granted by it, unless the contrary is proved by the same or some other law, it remains to be seen whether a provision for another agency has been made.

The minority do not recollect to have observed that, either in the opinion of the Attorney General, or in the report of the committee, any other clause has been adverted to, as giving to the Secretary of War the power to appoint pension agents, except the clause in the third section, which says, that "the pay allowed by this act shall, under the direction of the Secretary of the Treasury, (now the Secretary of War,) be paid to the officer, non-commissioned officer, musician, or private, entitled thereto, or his or their authorized attorney, at such places and times as the Secretary of the Treasury may direct."

The first question is, whether the power to appoint *times and places* of payment excludes the agency of the bank in making the payment at those times and places. If it does not, then the argument derived from this part of the clause is of no force. Now it is entirely obvious, that fixing the time and place of payment does not exclude the agency of the bank, because that is precisely what the Secretary of War has uniformly done in the case of the revolutionary pensions, under the act of 1818, and the invalid pension acts, to which it is admitted that the agency of the bank applies. The power to fix times and places of payment does not necessarily, or even properly, imply the power to appoint agents to make the payments. It stops short of such an appointment; and if the act of 1817 did not provide agents for the purpose, it would be an omitted case, and the Secretary of War would have to do as the Secretary of the Treasury is said to have done under the act of 1828—pay them himself, or they would not be paid. The power to fix the times and places was given to impart the same authority, under this act, that existed under the invalid pension acts and the revolutionary pension act of 1818, for the distribution of payments to accommodate the pensioners in the different States. But for this they must have been paid out of the Treasury only. When this distribution was made, this power of fixing times and places was executed, and the agency for payment was of course to be regulated by some other power or law.

The remaining question is, whether the power to appoint agents is derived from that part of the clause which says that "the pay allowed by this act shall, *under the direction of the Secretary of the Treasury*, be paid to the officer," &c. That it is not so derived, is obvious, from two considerations: First, That there are powers of direction belonging to the Secretary, sufficient to satisfy the clause, without extending them to the appointment of agents. The Secretary is the officer who is to decide upon the right of the applicant for payment; to say who is to be paid; and to prescribe the form and mode of payment; and his direction, in these respects, is to govern the agent who pays. The pensions are to be paid under the direction of the Secretary, but they are to be paid under these directions *by the persons appointed by law*, namely, the bank and its branches. Secondly, This is the very language of the act of 3d March, 1817: The bank and its branches are to perform the duties of commissioners of loans, and "*shall conform to the directions* which have been or may hereafter be prescribed by the Secretary of the Treasury," &c. This does not show that the Secretary may appoint other agents, but that the agent appointed is to perform the duty under his directions.

In no part of the act of June, 1832, have the minority been able to discover that the agency of the bank is suspended, or a power given to the Secretary to appoint agents; and the practice up to the moment when the Executive department began the present conflict with the bank, is a contemporaneous and also an impartial exposition of the law to the same effect. The minority therefore consider the duty of the bank to apply fully and clearly to the act of 1832.

III. If the Secretary of War has no authority to appoint agents to pay these pensions, it would seem to be free from doubt, that the bank could not, consistently with law or its own safety, transfer the pension books and pay over the funds to an agent illegally appointed. It is not a question of mere responsibility or risk, but a question of the violation of a law of Congress; and if there were no pecuniary risk whatever, the minority do not perceive upon what ground, consistently with the respect and duty which every citizen owes to the laws, the bank could be required to make the payment, merely because there was little probability of pecuniary loss. The liability to that loss cannot, however, be denied.

The Attorney General asserts a distinction between payment of the whole pension fund by the bank to an agent appointed by the Department of War, and payment of part to a pensioner, who has not complied with the formalities prescribed by the Treasury. Compliance by the bank, with a general order of the War Department to pay the whole, he regards as free from all responsibility, while he admits that compliance with a particular order to pay a part, and to disregard the legal forms prescribed by another Department, (the Treasury,) is at the risk of the bank. He so appears to admit it, because the risk has been actually cast upon the bank by the Treasury, in a case of this kind, alluded to by Mr. Biddle, whose letter is hereto annexed. The distinction of the Attorney General is not admitted to be a sound one. The questions, both of general and special orders to pay, turn upon the legal authority of the person who receives. If the appointment of a pension agent by the War Department is illegal, a payment by the bank to such an agent must also be illegal. The right of the Treasury to refuse a credit for the whole, is the same as the right to refuse it for a part. Payment to an unauthorized agent is no payment in law.

The Attorney General further asserts that "the refusal of the bank to deliver over the books and papers belonging to the agency is a still more palpable breach of the duty which results from the subordination of the agent to the principal, because not excused by any apprehension, *well* or ill founded, of prejudice to the bank. These documents having been received from the War Department alone, *and not being the subject of accounting at the Treasury*, might have been delivered with absolute safety to the bank and its officers." That a *well* founded apprehension of prejudice to the bank would not excuse the refusal, is perhaps more than it was intended by the Attorney General to say, and yet it is said. The suggestion that it it was ill founded, because the War Department gave the order, and the documents are not "the subject of accounting at the Treasury," cannot be adopted by the minority. It ought to be remarked that a demand upon the bank to deliver up the books and papers has never been made, except in connexion with a demand to pay over the money. It was a joint and indivisible order, to be entirely respected, if respected at all. But, in the opinion of the minority, the safety of delivering the books and papers is dependent upon the same considerations with that of paying over the money. The question of legal or illegal agency comprehends both subjects. As

to the intimation that there would be no danger in delivering the pension books because *they are not the subject of accounting at the Treasury*, but are only to be accounted for at the Department which gave the order, the minority are compelled to remark that the value of the suggestion depends upon the continuance of the same officer, with the same sentiments, in the same Department—a circumstance, the probability of which the bank could not be required to estimate; and if it could, it cannot be admitted that the existence of personal considerations in a public officer, to make him respect the order which he has himself given, is a sufficient reason for inducing others to respect it, if it be illegal.

An effort seems to be made to involve the president of the bank in the assertion that the bank is, in this behalf, a public officer, not subject to removal by the President, according to the constitution or the practice under it. The Attorney General remarks that "the bank claims to be considered as a *public officer*, and to be invested with authority to decide on the validity of the order of the War Department;" and upon this he proceeds to say that if the bank or its presidents are public officers, "it is very clear that they must be regarded as holding only inferior and subordinate offices." "They are merely paymasters of pensions, and stand in precisely the same relation to the Secretary of War which the ordinary paymasters of the army stand in to the same Department;" that is to say, subject to removal and substitution. This view of the case is more than once adverted to in the same opinion, for the purpose of subjecting the bank in some way to Executive direction. The bank, it is therein remarked, "took the agency from the commissioners of loans, by substitution in their stead; and those commissioners, as we have seen, derived it from an Executive regulation;" from which the inference would seem to be that the bank now holds it by Executive regulation, and, therefore, that the Executive can discharge the bank from the performance of the duty. The committee say, "that the bank claims to be the disbursing officer of the Government, independent of the appointment of the Executive, to hold the office by law, and to be beyond the power of removal by Executive authority. Such a claim, to be supported, should be clearly established, as it is at variance with the constitution and the laws."

The minority are unable to find any thing in the letter of the president of the bank, which asserts that the bank and its branches, or their presidents, are *public officers*. They are equally unable to find any thing in the law to place them in the same relation to the War Department with ordinary paymasters of the army, or to show that they now perform the duty of paying pensions, by force of an Executive regulation. They "took the agency from the commissioners of loans, by substitution in their stead;" but they took it by law, and they hold it by law. The situation of the bank is misconceived. The bank and its branches are required by law, in their very character of a bank, to perform a duty in the disbursement of the public moneys, namely, to pay the public pensions, just as they are required by law to transfer the public moneys from place to place, and to pay the interest and reimbursement of the public debt. If the Chief Executive Magistrate has authority to discharge them from the performance of this duty under the act of 1832, he has equal authority to discharge them from the performance of the same duty under the act of 1818, and under all prior acts, and the bill reported by the committee is unnecessary. It is, however, needless to raise this question, because, if the prerogative exists, it exists in the President, who has not exercised it, and not in the Secretary of War, who has claimed to exercise it. It is not supposed by the minority that the power exists in either. The Secretary of War claims to appoint agents for this purpose, by virtue of an act of Congress. His claim is just as repugnant to the constitutional power of appointment by the President as the claim of the bank is. Each asserts that an act of Congress has assigned the duty to itself; and, therefore, each admits the competency of Congress so to assign it. The whole question between the Department of War and the bank turns upon the meaning of an act or acts of Congress, and, therefore, the minority do not conceive that there is any thing in the suggestions of the bank that is at variance with the constitution. The bank conceives, and the minority entertain the same opinion, that, in the performance of the duty, the bank and its branches are subordinate to the law, and not to the Department of War, although, by the same law, they are bound to follow the directions of that Department as to the times, places, and details of payment. Congress have required of the bank the performance of this duty; the bank has agreed to perform it, and money and documents have been placed in their hands to enable them to perform it. That it is in the power of the Secretary of War, or any officer of this nation, to say that the duty, if imposed upon the bank by a law of Congress, shall not be performed by the bank, but by some one else, and that the bank shall pay over the funds and deliver the documents so placed in their hands, to such other person, is what the minority find themselves unable to admit, because they cannot admit the authority of any officer in the nation to annul a law of Congress.

IV. The question of removing from the Bank of the United States the pension funds now remaining there, and placing the future appropriations of money for this object in the State banks, is in substance the same question which is now under discussion in the House, upon the removal of the public deposites. The act of the Secretary of the Treasury, in removing the deposites, has not yet received the approbation of Congress. If it shall receive it, in the forms of the constitution, the minority must yield to the legal authority of a sanction so expressed. Until then, they will continue to regard the act as done in violation of law, and in breach of the public faith; and they cannot, until then, yield their assent to the measure now under examination, which appears to have been directed in prosecution of the same design.

The motive with Congress for committing to the bank the payment of pensions, and of the principal and interest of the public debt, was that of having the security for their disbursement, and for their safe keeping until disbursement, which was given by a charter approved by Congress, and subject to the control of the federal judiciary, and by an administration of the bank, the result of whose proceedings was submitted periodically to the inspection of the Treasury Department, and all whose measures were examinable at the pleasure of either House of Congress. This motive is effectually disappointed by removing the pension funds from the custody of the bank, and placing them in the State banks, or in the hands of private persons, at the pleasure of the Secretary. Their safety, up to the moment of disbursement, whatever it may practically be, must depend upon other laws, other securities, and other arrangements, than those which Congress have either made, directed, or approved; and their due disbursement to the pensioners, if it shall take place, will not be the result of the precautions which Congress have devised, but of such care only as an officer of the Executive Department shall be able and willing to give to the selection of honest, capable, and responsible agents. The proposed change exposes to unjustifiable hazard, both the money of the people, and the objects of the public bounty.

The motive of the bank for agreeing to perform the duties of pension agents and commissioners of loans, was that of having the custody and use of the money up to the moment of disbursement. It has performed those duties faithfully, and it continues to be entitled to the custody.

It is impossible to distinguish this removal of the pension fund, by any circumstances whatever, that will reconcile it with the public faith pledged to the bank, if the general removal of the deposites cannot be so reconciled. By removing this fund, public moneys are removed, and the bank is deprived of the benefit which would have resulted from their possession. If it is lawful to remove the pension funds, so is it lawful to remove the funds appropriated to pay the interest and principal of the public debt. If the bank and its branches can be lawfully required to transfer the pension papers and funds, so they may be lawfully required to transfer the loan office papers and funds; and they may then be deprived of the custody of both funds, without a pretence that either of them is unsafe in their possession, or that they have ever in any particular violated, or are likely to violate, their duty in the disposition of either. The principle of the bill reported by the committee, in like manner as the removal of the funds, directed by the Secretary of War, is in necessary conflict with the faith of Congress, the rights of the bank, the security of the public money, and the faithful payment of the public pensioners. The mere creation by law of another agency to pay the pensions, might not be a violation of the rights of the bank; but such an agency, created at the present time, while the public deposites are removed from the bank, and no assurance is given of their return, would be a sanction of the removal by Congress, and a sanction for paying the pensions exclusively by funds deposited in other banks or hands. The minority cannot concur in a report or bill which is practically to have such effects.

V. The measure of directing the removal of the pension funds in January last, when, from the state of relations between the administration and the bank, the public alarm was extreme, and threatened, unless in some manner allayed, to bring on a crisis of general bankruptcy in our commercial cities, and of deep distress to the country, is one which, in this aspect alone, without regarding its illegality, the minority could not be induced to recommend to the sanction of the House. The measure has increased that alarm and distress. It announced the continued purpose of hostility to the bank. It declared that the allegations of public distress, as proceeding from that cause, were either disbelieved or disregarded. It consummated, or nearly so, the final divorce of the bank from the Treasury of the nation, so as to leave no hope of reunion or reconciliation. The report, and the bill recommended by the committee, carry the hostility still further—further even than any thing which the President of the United States has publicly recommended in his message. The minority believe that neither public nor private security can be found in this direction. They believe that they should be sought, and that they can only be found, in the opposite direction; and that, instead of sundering every tie between the Treasury and the bank, the interest of the people requires that such as remained after the removal of the deposites by the Secretary of the Treasury, should be left to form the basis of a renewed connexion, if the public safety should be found to require it.

VI. The minority finally submit to the House, that the effect of the proposed bill, in placing the annual expenditure of nearly four millions of dollars, under the direction of an Executive Department, by agents appointed, and removable by that Department, and practicably responsible to it alone, is a measure which is contrary to the spirit of the existing laws of Congress, and to the welfare of the nation. At the present moment the whole revenue of the country is possessed by persons whom Congress have not approved, whom they do not control, whose solvency they cannot ascertain, whose fidelity they cannot secure, whose use or abuse of the treasure is a matter for which those persons are not accountable to Congress, or to any officer appointed or removable by Congress. This position of the revenue, the minority cannot think is one which the people of the United States will, upon due consideration, approve; and, therefore, they cannot agree to a bill which not only aggravates the evil, if it be an evil, but, by a side wind, sustains all that has been done, both as to the removal of the deposites, and their present position. The opinion which the minority entertain and express to the House, is, that the power of the Executive branch is already too large; that the safety of the constitution depends upon such a distribution of powers among the different departments as will keep them in equipoise; and that the maintenance of the lawful and constitutional powers of the Executive itself, like that of the other departments, consists in their being kept within the constitutional limits.

BN. GORHAM,
HOR. BINNEY,
February 17, 1834. R. H. WILDE.

REPORT OF THE SECRETARY OF THE TREASURY,

Transmitting statements in relation to the condition of the Bank of the United States and its offices; also, statements in relation to the situation of the different chartered banks in the different States, and the District of Columbia, &c.

January 14, 1834.—Reprinted by order of the House.

TREASURY DEPARTMENT, *Feb.* 12, 1820.

SIR: In obedience to a resolution of the House of Representatives, passed on the 1st of March 1819, directing "the Secretary of the Treasury to transmit to Congress, at an early period in the next session, a general statement of the condition of the Bank of the United States and its offices, similar to the return made to him by the bank; and a statement exhibiting, as nearly as may be practicable, the amount of capital invested in the different chartered banks in the several States, and the District of Columbia; the amount of notes issued by those banks, and in circulation; the public and private deposites in them; the amount of loans and discounts made by them and remaining unpaid, and the total quantity of specie they possess; and, also, to report such measures as, in his opinion, may be expedient to procure and retain a sufficient quantity of gold and silver coin in the United States, or to supply a circulating medium in place of specie, adapted to the exigencies of the country, and within the power of the Government;" I have the honor to submit the subjoined report and statements.

Statement A exhibits the condition of the Bank of the United States and its offices on the 30th of September, 1819.

Statement A exhibits the amount of bank capital authorized by law, during the years 1814, 1815, 1816, and 1817. As this statement is founded upon the applications made to the Treasury under the acts imposing stamp duties, it is believed to be substantially correct. The average dividends upon which the stamp duty was paid, during those years, amounted to about 7½ per cent. upon the nominal amount of capital. It is, however, a matter of general notoriety, that the dividends upon bank capital, actually paid, exceeded that rate. If it is assumed that the dividends declared, and upon which the duty was paid, amounted, during those years, to 10 per cent., then the capital actually paid in the year 1817, instead of being more than $125,000,000, as it is exhibited in statement B, will be found to be about $94,000,000; but, when it is recollected that, after the first payment required by the charters of the different banks, they have generally gone into operation, it is probable that a considerable proportion of the remaining payments have added nothing to their active capital. This fact being assumed, and a deduction being made of the amount of permanent accommodation enjoyed by the stockholders in their respective banks,

the active bank capital of the United Srates may be fairly estimated at a sum not exceeding $75,000,000. That these deductions ought to be made, in an attempt to ascertain the real amount of bank capital, cannot, it is presumed, be contested. If a stockholder, to the amount of $10,000, has a permanent accommodation in the bank of $8,000, he has, in fact, but $2,000 of capital in the bank. This is equally true when a portion of his subscription has been paid with his own note, however well endorsed. So long as the note remains unpaid, it adds nothing to the real capital of the bank.

Such, it is believed, has been the process by which the capital of most of the banks has been formed, which have been incorporated since the commencement of the late war. Since that period, banks have been incorporated, not because there was capital seeking investment; not because the places where they were established had commerce and manufactures which required their fostering aid, but because men, without active capital, wanted the means of obtaining loans, which their standing in the community would not command from banks or individuals having real capital and established credit. Hence the multiplicity of local banks, scattered over the face of the country, in particular parts of the Union; which, by the depreciation of their paper, have levied a tax upon the communities, within the pale of their influence, exceeding the public contributions paid by them.

Statement C presents the condition of the State banks from which returns have been received, or have been transmitted by the Secretaries of State of different States, in conformity with the request of the Treasury Department. By comparing this statement with statement B, it will be perceived that it is very imperfect. Independently of the banks which have been created since the year 1817, it will be discovered that bank capital to the amount of more than $18,000,000, comprehended in statement B, is not embraced in it. As the amount of bank capital exhibited in statement C is $72,000,000, and its specie $9,828,000, the whole specie possessed by the State banks may be estimated at $12,250,000; if to this sum be added the specie in the possession of the Bank of the United States and its offices, the specie capital of all the banks in the United States may be estimated at $15,500,000. There are no means of ascertaining, with any degree of precision, the amount of specie in circulation; it is probable, however, that it does not exceed $4,500,000 Assuming this amount to be nearly correct, the whole metallic currency of the Union may be estimated at $20,000,000. Applying the same rule for ascertaining the circulation of the banks, not embraced by statement C, which has been employed to determine their specie, the whole amount of bank notes in circulation may be estimated at $46,000,000. It is probable, however, that this estimate is too high; as, according to the general practice of banks, all notes issued are considered in circulation, which are not in the possession of the bank by which they were issued. A reasonable deduction being made from the notes supposed to be in circulation, but which are, in fact, in the possession of other banks, it is probable that the actual circulation, both of paper and specie, is less, at this time, than $45,000,000. By the same mode of calculation, the whole amount of discounts may be estimated at $156,000,000.

The destruction or loss of the returns made to the Treasury, before the year 1816, by the banks in which the public money was deposited, prevents any satisfactory comparison being drawn between their condition before and since that period. Comparative statements, however, have been received from sixteen banks in different parts of the Union, showing their situation on the 30th day of September, in the years 1813, 1815, and 1819. By statement D, it appears that those banks, at the first period, with a capital of $6,903,262, and with $3,059,149 of specie in their vaults, circulated $6,845,344 of their notes, and discounted to the amount of $12,990,975; at the second period their capital was $8,852,371; specie, $1,693,918; circulation, $9,944,757, and discounts, $15,727,218; and at the third period their capital was $9,711,960; specie, $1,726,065; circulation, $4,259,234; and discounts, $12,959,560.

By statement B, already referred to, it has been shown that, in the year 1814, the nominal bank capital in the United States exceeded $80,000,000. It is understood that a large addition was made to it in that year in several of the States. If it be admitted that such addition amounted to $15,000,000, the bank capital in operation in the year 1813 may be stated at $65,000,000. Allowing to this capital the same amount of specie, circulation, and discounts, as was comparatively possessed by the banks comprehended in statement D, the estimate will be, specie, $28,000,000; circulation, $52,000,000; and discounts, $117,000 000. In 1815, the bank capital had increased to $88,000,000; whilst, upon the same principle of calculation, the specie would have been estimated at $16,500,000; circulation at $99,000,000, and discounts at $150,000,000. Applying this principle to the $125,000,000 of bank capital in operation during the year 1819, the specie possessed by all the banks would amount to $21,500,000; circulation, $53,000,000; and discounts, $157,000,000.

These last results, with the exception of the discounts, very materially differ from those which have been obtained by the mode of calculation previously adopted. They, nevertheless, furnish materials which may be useful in the progress of this inquiry. From them the following deductions may be drawn:

1st. That, in the year 1813, the circulation of bank notes was nearly equal to the bank capital.

2d. That, in the year 1815, it exceeded the capital by one-eighth.

3d. That, in the year 1819, it was less than the capital nearly in the proportion of 1 to 2.5.

4th. That, whilst the amount of bank capital has increased, since 1813, from 65 to 125 millions, the metallic basis upon which the circulation of notes is founded, has decreased in the proportion of 15 5 to 28, being equal to 44.6 per cent.

5th. That the circulation of notes in the year 1819, in proportion to the specie in the possession of the banks, exceeded that of 1813 25.9 per cent

6th. That, in the year 1813, the discounts, in proportion to the bank capital employed, exceeded those of 1815 in the ratio of 18 to 17, and those of 1819 in the ratio of 18 to 12.

7th. That the increase of bank notes in circulation, between the years 1813 and 1815, exceeded the increase of discounts during the same period by $4,000,000; whilst the specie in the vaults of the banks was diminished $11 000,000.

8th. That whilst, between the years 1815 and 1819, an addition of $37,000,000 has been made to the nominal bank capital, but $6,000,000 have been added to the aggregate amount of discounts.

It is probable that, between the year 1811 and the year 1813, a considerable addition was made to the paper circulation of the country. From a return of the former Bank of the United States, made to the Treasury in 1808, it appears that, with $15,300,000 of specie, it circulated only $4,787,000 of notes. Another return, made in 1810, shows its condition was not materially changed. Shortly after the expiration of its charter, bank capital to a great amount was incorporated in some of the States. The expenditures produced by the war, which was declared in 1812, without doubt contributed, in some degree, to produce the difference between the condition of the sixteen banks already referred to, and that of the former Bank of the United States. If it be admitted, however, that the cir-

culation in 1813 was not redundant, it must have become excessive in 1815. An increase of the currency, in the space of two years, in the proportion of 99 to 62, even if it had been wholly metallic, could not have failed to have produced a very great depreciation; but, when it is considered that not only the increase, but the whole circulation, consisted of paper not convertible into specie, some idea of its depreciation may be formed. The depreciation, however, was not uniform in every part of the Union. The variation in the degree of depreciation depended not only upon the greater issues of banks in one section of the nation than in others, but also upon the local advantages which they enjoyed as to commerce. It is impossible to determine with precision where the most excessive issue of bank notes occurred. Statement E, which exhibits the rate of exchange between the principal cities to the east of this place and London, and the price of bills at New York upon Boston, Philadelphia, and Baltimore, during the years 1813, 1814, 1815, and 1816, may be considered presumptive evidence of that fact. So far as it can be relied upon for that purpose, Baltimore was the point of greatest depreciation among the above-mentioned places. This is probably true, as it is known that the banks in that place made greater advances to the Government in the loans which it obtained during the late war, in proportion to their capital, than those of Philadelphia, New York, and Boston. But the greatest depreciation of the currency existed in the interior States, where the issues were not only excessive, but where their relation to the commercial cities greatly aggravated the effects of that excess.

This statement may also assist in explaining the cause of the necessity which existed in 1814 for the suspension of specie payments by the banks. From the commencement of the war until that event, a large amount of specie was taken out of the United States by the sale of English Government bills, at a discount frequently of from 15 to 20 per cent. Immediately after the suspension, they commanded a premium in those places where the banks had suspended payment, which gradually rose to 20 per cent.; whilst at Boston they remained at a discount of about 14 per cent. until February, 1815.

Whatever may have been the degree of depreciation of the currency in 1815, it continued to augment throughout the first six months of the year 1816, if the rate of exchange with London is considered conclusive evidence of that fact. The excessive importations of British merchandise during that period, and in the preceding year, might indeed account for the increase of premium paid upon sterling-bills, and was, probably, one of the principal causes of it. The great fluctuations which occurred in the latter part of that period, furnish some reason, however, for ascribing them, in some degree, to changes in the value of the currency, in which their price was calculated, rather than to the ordinary principles of exchange. It is more probable that the currency in those places where it was not convertible into specie, fluctuated in value according to the efforts which were made in particular places to perpare for the resumption of specie payments, than that the balance of payments between the two countries should have varied to such an extent as is indicated by the sudden variations which occurred during that period in the rate of exchange. So far as these fluctuations are ascribable to the currency in which the rate of exchange was determined, a considerable appreciation of that currency took place in the last months of the year 1816. From that period until the present time, the circulation has rapidly diminished; and all the evils incident to a decreasing currency have been felt in every part of the Union, except in some of the Eastern States.

If, as previously stated, the circulation of 1813 be admitted to be the amount required to effect the exchanges of the community with facility and advantage, and that, in the year 1815, that circulation was extended to $99,000,000, which was, in some degree, augmented in 1816, the extent of the diminution of the currency, in the space of three years, may be perceived. But it is probable that the currency in 1815 exceeded $99,000,000. The banks, upon whose situation that estimate is founded, were established at a period when the practice of dispensing with the payment of those portions of their capital falling due after they went into operation, had not been generally introduced. Some of them did not suspend specie payment during the general suspension. The rest were among the first to resume them, and have continued them to the present time. It cannot be expected that banks which went into operation during the war, and after the general suspension had occurred, were conducted with an equal degree of prudence and circumspection. A reasonable allowance being made for bank notes supposed to be in circulation at that period, but which were, in fact, in the possession of other banks, and for the excess of issues beyond the estimate, the circulation may, it is believed, be safely calculated at not less than $110,000,000. The paper circulation in 1813 has been estimated at $62,000,000. At that period, however, gold and silver formed a substantial part of the currency. The condition of the old Bank of the United States in 1810, and of the sixteen banks in 1813, proves that the demand for specie from the vaults of the banks was inconsiderable. It is, therefore, probable that the whole circulation of 1813 amounted to $70,000,000. In 1815 it is estimated to have risen to $110,000,000; and this amount was probably augmented in 1816. At the close of 1819, it has been estimated, upon data believed to be substantially correct, at $45,000,000. According to these estimates, the currency of the United States has, in the space of three years, been reduced from $110,000,000 to $45,000,000. This reduction exceeds fifty-nine per cent. of the whole circulation of 1815. The fact that the currency in 1815 and 1816 was depreciated, has not sensibly diminished the effect upon the community of this great and sudden reduction. Whatever was the degree of its depreciation, it was still the measure of value. It determined the price of labor, and of all the property of the community. A change so violent could not fail, under the most favorable auspices in other respects, to produce much distress, to check the ardor of enterprise, and seriously to affect the productive energies of the nation. The reduction was, in fact, commenced under favorable auspices. During the year 1817, and the greater part of 1818, all the surplus produce of the country commanded in foreign markets higher prices than ordinary. The rate of foreign exchange afforded no inducement for the exportation of specie for the purpose of discharging debts previously contracted. The only drain to which the metallic currency was subject, was the demand for it for the prosecution of trade to the East Indies and to China. In this trade, specie being the principal commodity, and indispensable to its prosecution, the amount exported during those years was very great, and seriously affected the amount of circulation, by compelling the banks to diminish their discounts.

Notwithstanding the drains for this commerce during these years were unusually large, every other circumstance was favorable to the restoration of the currency to a sound state, with the least possible distress to the community. The capacity of the country to discharge a large portion of the debts contracted with banks, and which had occasioned their excessive issues, was greater than at any former period, and than it probably will be again for a lapse of successive years. The effort to reduce the amount of currency during those years, though successful to a considerable degree, was not pursued with sufficient earnestness. In the latter part of 1818, when the price of the principal articles of American production had

fallen nearly fifty per cent. in foreign markets; when the merchant needed the aid of additional loans to sustain him against the losses which he had incurred by the sudden reduction in the price of the commodities he had exported, he was called upon to discharge loans previously contracted. The agriculturist, who saw his income reduced below his indispensable necessities; the manufacturer, who was not only struggling against foreign competition, but who saw the sale of his manufactures reduced by the incapacity of his customers to buy; in fact, all classes of the community, under circumstances so adverse to the command of funds, were subjected to curtailments wherever they had obtained discounts.

All intelligent writers upon currency agree that where it is decreasing in amount, poverty and misery must prevail. The correctness of the opinion is too manifest to require proof. The united voice of the nation attests its accuracy. As there is no recorded example in the history of nations of a reduction of the currency, so rapid and so extensive, so but few examples have occurred of distress so general and so severe as that which has been exhibited in the United States. To the evils of a decreasing currency are superadded those of a deficient currency. But, notwithstanding it is deficient, it is still depreciated. In several of the States the great mass of the circulation is not even ostensibly convertible into specie at the will of the holder. During the greater part of the time that has elapsed since the resumption of specie payments, the convertibility of bank notes into specie has been rather nominal than real in the largest portion of the Union. On the part of the banks, mutual weakness had produced mutual forbearance. The extensive diffusion of bank stock among the great body of the citizens in most of the States, had produced the same forbearance among individuals. To demand specie of the banks, when it was known that they were unable to pay, was to destroy their own interests, by destroying the credit of the banks in which the productive portion of their property was invested. In favor of forbearance, was also added the influence of the great mass of bank debtors. Every dollar in specie drawn out of the banks, especially for exportation, induced the necessity of curtailments. To this portion of the community all other evils were light, when compared with the imperious demands of banks. Their exertions to prevent the drain of specie in the possession of those who controlled their destiny, equalled the magnitude of the evils which were to be avoided. In most parts of the Union this forced state of things is passing away. The convertibility of bank notes into specie is becoming real wherever it is ostensible. If public opinion does not correct the evil in those States where this convertibility is not even ostensible, it will be the imperious duty of those who are invested with the power of correction to apply the appropriate remedy.

As the currency is, at least in some parts of the Union, depreciated, it must, in those parts, suffer a further reduction before it becomes sound. The nation must continue to suffer until this is effected. After the currency shall be reduced to the amount which, when the present quantity of the precious metals is distributed among the various nations of the world, in proportion to their respective exchangeable values, shall be assigned to the United States; when time shall have regulated the price of labor, and of commodities, according to that amount; and when pre-existing engagements shall have been adjusted, the sufferings from a depreciated, decreasing, and deficient currency, will be terminated. Individual and public prosperity will gradually revive, and the productive energies of the nation resume their accustomed activity. But new changes in the currency, and circumstances adverse to the perpetuity of the general prosperity, may reasonably be expected to occur. So far as these changes depend upon the currency, their recurrence, to an extent sufficient to disturb the prosperity of the nation, would be effectually prevented, if it could be rendered purely metallic. In that event, we should always retain that proportion of the precious metals which our exchangeable commodities bear to those of other nations. The currency would seldom be either redundant or deficient, to an extent that would seriously affect the interest of society. But when the currency is metallic, and paper convertible into specie, changes to such an extent, it is believed, will frequently occur.

The establishment of banks which are restrained from issuing notes of small denominations, furnishes great facilities for the transmission of money, and increases the efficiency of the capital subject to their control, to the extent of the credit employed by them. The degree of facility afforded by them for the transportation or transmission of money, depends upon the extent of country within which their notes circulate, and preserve a value equivalent to specie. Ordinarily, this extent is determined by the interior trade of the country; they will circulate through the whole extent of country, the produce of which is carried for sale to the place of their establishment. If they are established only in the principal commercial city of the nation, their notes will circulate through the whole extent of its territory, and afford the greatest possible facility for the transmission of money. If they are established in several of the commercial cities, their circulation will be circumscribed by the sections of country, the inhabitants of which trade to those cities. The facility for transmitting money will be diminished by their establishment. But if banks should be established in all the interior towns, this facility would be impaired to a still greater degree. In that event, their notes would circulate within very narrow limits; but, within those limits, the notes of the banks in the commercial cities would no longer form part of the circulation. Should they, by accident, be carried within it, the first individual having remittances to make, and into whose hands they might come, would use them for that purpose.

The degree of credit which a bank can employ, in proportion to its capital, depends upon a variety of circumstances. If the community reposes great confidence in the prudence and integrity of those who direct its concerns; if the capital employed is small in proportion to the demand for the transmission of money; if there is no other bank, whose local situation repels its circulation from those sections of country, the produce of which is ultimately carried to the place where it is established, the credit which it will be able to employ will be very great. Where all these facilities are wanting, the extent of the credit which it will employ will be very inconsiderable. The additional efficiency which, in the latter case, will be imparted to capital invested in banks, will, it is believed, not countervail the evils which necessarily result from their establishment.

Among the advantages which have been supposed most strongly to recommend their establishment, especially in a community whose resources are rapidly expanding, their capacity suddenly to increase the currency to the utmost demand for it, has been considered the most important.

In a country where the currency is purely metallic, no considerable addition can be made to it, without giving, at the time of its acquisition, articles in exchange of equal value. No addition can be made to the currency without affecting, to the extent of such addition, the enjoyments of the community. The amount so added will, to the same extent, diminish the quantity of articles which would otherwise be imported into the country for domestic consumption, or for re-exportation.

Ordinarily, the currency of one country will not be exported to another, because its value in every country is nearly the same. It will not, therefore, like other commodities, command a commercial profit upon exportation.

It will be taken from one country to another, only when the price of commodities in the former is so high as to produce a loss in the latter, equal to the expense of transporting specie. It is this condition, annexed to every acquisition to the currency of a State, when it is purely metallic, of diminishing, to the same extent, the enjoyments of the community, which affords the most efficient protection against its becoming redundant. It is equally efficient in guarding against a deficiency to an extent that can seriously affect the interest of the community. But this condition is not annexed to the increase of the currency, by the issue of bank notes, even when convertible into specie. The notes, by which the currency is suddenly augmented, do not, in any degree, diminish the enjoyments of the community. No equivalent is, by such issue, transferred to another community, as is invariably done when an acquisition is made to a metallic currency. Whenever the currency can be augmented, exempt from such transfer, it must be subject to some degree of fluctuation in quantity. Every addition made to the currency by the issue of bank notes, changes the relation which previously existed between the amount of the currency and the amount of the commodities which are to be exchanged through its agency. Their issue depends not upon receiving, in exchange, articles of equal value, but upon a pledge of the credit of one or more individuals, to the amount of such issue. No evil can result to the community from the advance of the capital of a bank in exchange for the credit of individuals. In that case, no addition is made to the amount of the currency previously in circulation. It is perfectly immaterial to society whether this capital be lent by individuals or by corporations. The relation between the currency and the exchangeable commodities of the State is not disturbed; but when their credit is greatly extended, the currency is expanded, and that relation is deranged. An expansion of the currency, through the agency of banks, will generally occur only in periods of prosperity. During such periods, enterprise will be fostered, industry stimulated, and the comfort and happiness of the people advanced, without the factitious aid of an expansive currency. But there can be no doubt that a sudden increase of the currency during periods of prosperity, through the agency of bank issues, gives additional force and activity to the national enterprise. Such an increase will be followed by a general rise in the value of all articles, especially of those which cannot be exported. The price of lands, houses, and public stock, will be augmented in a greater degree than if no such increase had taken place.

If these prices could be maintained—if they could even be protected against sudden reduction, they would be cause of gratulation rather than of complaint. But the expansion of the currency by the issue of paper, in a period of prosperity, will inevitably be succeeded by its contraction in periods of adversity. The extent to which the currency may be contracted, through the agency of banks, depends upon the use which they may have made of their credit. The excess of their discounts beyond their capital actually paid, determines the amount of the credit which they have employed. Thus, in 1813, the capital of the banks in the United States has been estimated at $65,000,000, and their discounts at $117,000,000. The extent to which their credit was then employed was $52,000,000. Their circulation at the same period has been estimated at $62,000,000. In this estimate no allowance was made for notes stated to be in circulation, but which were probably in the possession of other banks. A reasonable deduction being made on that account, it is probable that the paper circulation did not much exceed $52,000,000. But the liability of the banks for specie was equal to the whole amount of notes represented to be in circulation, besides the individual deposites. To meet an immediate demand, they are estimated to have had $28,000,000 in specie. If the deposites of individuals should be estimated at $18,000,000, their ultimate means of meeting the demand of $62,000,000, without sacrificing their capital, would consist of $10,000,000 in specie, and $52,000,000 secured by the notes of individuals; this sum being the excess of their discounts over their capital. Under ordinary circumstances, the basis upon which the credit of this circulation rested, might be considered sufficient to sustain it. A debt of $117,000,000 could not, under the most adverse circumstances, be considered inadequate to meet one of $52,000,000. But, in the case of currency, the capacity of ul imate redemption is not sufficient. The capacity to redeem it as it is presented is indispensable. Whenever the public confidence in this capacity is impaired, an immediate demand for specie will be created; and, if it is not promptly met, depreciation will ensue. But, even in circumstances in some degree adverse to the operations of banks, if their discounts consisted principally of notes founded upon real transactions, in which the idea of renewal was excluded, and if specie formed a considerable proportion of the circulation, the capacity of the banks to meet the demands upon them for specie, might have been sufficient to sustain the credit of the currency. If, on the other hand, the debts due to the banks consisted chiefly of fixed or permanent loans, generally denominated accommodation paper; if specie had been banished from circulation by the issue of dollar notes, the suspension of payment by the banks could not fail to be the result of any considerable pressure upon them for specie. In the former case, as their notes should be withdrawn from circulation, they would gradually be reduced to the demand for them for the transmission of money. If the effort to withdraw them should be continued beyond that point, specie would be paid into the banks by their debtors, in preference to bank notes; and the just proportion between the paper circulation, and the specie in their vaults, would be promptly restored. In the latter case, as the debts due to the banks would not, according to the understanding of the parties, become due at short intervals, the only mode of meeting the increasing demands upon them for specie would be to require of the whole mass of debtors the payment of a fixed proportion of the sums due by them. As the circumstances which would require this measure, on the part of the banks, would generally affect the community in the same degree, the capacity of their debtors to meet this demand would generally be found to be in an inverse ratio to the demand. The demand itself being inconsistent with the impression under which the debt was contracted, would be resisted in every case where the interest of the debtor would be subserved by delay. As specie formed but an inconsiderable part of the currency, the reduction of the paper circulation would have to be carried to a greater extent than in the former case. A just proportion between the paper circulation and the specie necessary to support it, could be obtained only by the positive reduction of the former, as it would be impracticable to increase the latter while the demand continued. Under such circumstances, the suspension of payment would be the probable result.

Such, in fact, were the circumstances under which the suspension in 1814 occurred.

The injudicious multiplication of banks, where capital in that form, to some extent, might have been useful; the establishment of them where they could only be injurious; the permission to issue dollar notes, by which specie was banished from circulation; and the demand for specie for exportation which existed during the years 1813 and 1814, imposed upon the banks in the Middle, Southern, and Western States, the necessity of suspending payment. A longer effort to discharge their notes in specie would not only have been ineffectual, but would certainly have postponed, to a more remote period, the resumption of specie

payments. The evils which have resulted to the community from that suspension have certainly been great: but it may well be doubted whether others of equal magnitude would not have been suffered, if that event had not occurred. The extent to which the currency must have been reduced, in order to have avoided the suspension, could not have failed, at any period, to produce great embarrassment and distress to the community. But, in a time of war, when the country was invaded, when the public safety required that the energies of the nation should be fully developed, a sudden and extensive reduction of the currency, by any cause whatever, would have been fatal. Under such circumstances, the demand for currency would have been too imperious to be resisted. It would, from necessity, have been supplied by the issue of Treasury notes.

The fact that, in a small portion of the Union, specie payments were continued, cannot be admitted as evidence that it was practicable throughout the nation. In that part of the country, the extensive bank issues, consequent upon loans to the Government in the Middle States, had not occurred. Foreign trade, which, in the other parts of the Union, was nearly annihilated, still preserved there a languid existence, through the permission or connivance of the enemy. These circumstances could not fail to enable the banks in the Eastern States to continue specie payments longer than those of the Middle, Southern, and Western States. In an effort to preserve their credit, they would, inevitably, be the last which would fall. In such a struggle, however, they must have failed, had not the circulation of the paper of their weaker neighbors and the issues of Treasury notes come to their aid. But for this adventitious assistance, wholly unconnected with the wisdom and foresight of their directors, specie payments must have been suspended there, or the best interests of the community have been sacrificed. From that period until the resumption of specie payments in the early part of 1817, Treasury notes, and the notes of the banks which had suspended payment, formed the great mass of the circulation in the Eastern part of the Union. Specie, or the notes of the banks which continued to pay specie, formed no part of the receipts of the Government in Boston and the districts east of that town, until about the close of the year 1816.

In all great exigencies, which, in the course of human events, may be expected to arise in every nation, the suspension of payment by banks, where the circulation consists principally of bank notes, is one of the evils which ought to be considered as the inevitable consequence of their establishment. Even in countries where paper does not form the principal part of the circulation, such an event will sometimes happen. In the year 1797, when the restriction was imposed upon the Bank of England, the average of its circulation for several successive years was about £10,000,000 sterling, while the metallic currency was estimated at £30,000,000. Yet, in that country, whose trade in time of war, through the protection of its fleets, was rather expanded than contracted, it was found necessary to authorize the bank to suspend payment; which suspension, after a lapse of twenty-three years, still continues. When the existence of banks depends upon the authority which regulates the currency, it may be practicable to impose salutary checks against excessive issues of paper during suspension, and, in some degree, to guard against an excessive depreciation of the currency. But, where these institutions are created by an authority having no power to regulate the currency, and especially where they are created by a great variety of authorities independent of each other, and practically incapable of acting in concert, it is manifest that no such checks or restraints can be imposed. It is impossible to imagine a currency more vicious than that which depends upon the will of nearly four hundred banks, entirely independent of each other, when released from all restraint against excessive issues. By the term currency, the issue of paper by Government, as a financial resource, is excluded. Even such an issue in a State where the reign of law is firmly established, and public opinion controls the public councils, would be preferable to a currency similar to that which existed, in some parts of the United States, during the general suspension, and which now exists in some of the States. This truth has been practically demonstrated, by the redemption of the whole of the Treasury notes issued during the war, within the short space of about two years after the peace; whilst a large amount of bank notes issued during the suspension are yet unredeemed, and greatly depreciated.

There can be no doubt that a metallic currency, connected with a paper circulation, convertible into specie, and not exceeding the demand for the facile transmission of money, is the most convenient that can be devised. When the paper circulation exceeds that demand, the metallic currency to the amount of the excess will be exported, and a liability to sudden fluctuations to the same extent will be produced.

If banks were established only in the principal commercial cities of each State; if they were restrained from the issue of notes of small denominations; if they should retain an absolute control over one-half of their capital, and the whole of the credit which they employ, by discounting to that amount nothing but transaction paper payable at short dates, the credit and stability of the banks would, at least, be unquestionable. Their notes could always be redeemed in specie on demand. The remaining part of their capital might be advanced upon long credits to manufacturers, and even to agriculturists, without the danger of being under the necessity of calling upon such debtors to contribute to their relief, if emergencies should occur. Such debtors are, in fact, unable to meet sudden exigencies, and ought never to accept of advances from banks, but upon long credits, for which timely provision may be made. The latter class, of all others, is the least qualified to meet the sudden demands which a pressure upon banks compels them to make upon their debtors. The returns of capital invested in agriculture are too slow and distant to justify engagements with banks, except upon long credits. If the payment of the principal should be demanded at other periods than those at which the husbandman receives the annual reward of his toil, the distress which would result from the exaction would greatly outweigh any benefit which was anticipated from the loan. That the establishment of banks, in agricultural districts, has greatly improved the general appearance of the country, is not denied. Comfortable mansions and spacious barns have been erected; lands have been cleared and reduced to cultivation; farms have been stocked, and rendered more productive, by the aid of bank credits. But these improvements will eventually be found, in most cases, to effect the ruin of the proprietor. The farm, with its improvements, will frequently prove unequal to the discharge of the debts incurred in its embellishment. Such, in fact, is the actual or apprehended state of things wherever banks have been established in the small inland towns and villages. Poverty and distress are impending over the heads of most of those who have attempted to improve their farms by the aid of bank credits. So general is this distress, that the principal attention of the State Legislatures, where the evil exists, is, at this moment, directed to the adoption of measures calculated to rescue their fellow-citizens from the inevitable effects of their own indiscretion. If, in affording a shield to the debtor, against the legal demand of his creditor, the axe shall be applied to the root of the evil, by the annihilation of banks where they ought never to have existed, the interference, however doubtful in point of policy or principle, may eventually be productive of more good than evil.

The general system of credit, which has been introduced through the agency of banks, brought home to every man's door, has produced a factitious state of things, extremely adverse to the sober, frugal, and industrious habits which ought to be cherished in a republic. In the place of these virtues, extravagance, idleness, and the spirit of gambling adventure have been engendered and fostered by our institutions. So far as these evils have been produced by the establishment of banks where they are not required, by the omission to impose upon them wholesome restraints, and by the ignorance or misconduct of those who have been intrusted with their direction, they are believed to be beyond the control of the Federal Government. Since the resumption of specie payments, measures have been adopted in some of the States to enforce their continuance; in others, the evil has been left to the correction of public opinion. There is, however, some reason to apprehend that the authority of law may be interposed in support of the circulation of notes not convertible into specie.

But the Federal Government has, by its measures, in some degree, contributed to the spirit of speculation and of adventurous enterprise, which, at this moment, so strongly characterize the citizens of this republic. The system of credit, which, in the infancy of our commerce, was indispensable to its prosperity, if not to its existence, has been extended at a period when the dictates of sound discretion seemed to require that it should be shortened. The credit given upon the sale of the national domain has diffused this spirit of speculation and of inordinate enterprise among the great mass of our citizens. The public lands are purchased, and splendid towns erected upon them, with bank credits. Every thing is artificial. The rich inhabitant of the commercial cities, and the tenant of the forests, differ only in the object of their pursuit. Whether commerce, splendid mansions, or public lands, be the object of desire, the means by which the gratification is to be secured are bank credits.

This state of things is no less unfriendly to the duration of our republican institutions, than it is adverse to the development of our national energies, when great emergencies shall arise; for, upon such occasions, the attention of the citizen will be directed to the preservation of his property from the grasp of his creditors, instead of being devoted to the defence of his country. Instead of being able to pay with promptitude the contributions necessary to the preservation of the state, he will be induced to claim the interference of the Government to protect him against the effects of his folly and extravagance.

This ought not to be the condition of a republic, when menaced by foreign force or domestic commotion. Such, it is apprehended, will be the condition of the United States, if the course which has been pursued since the commencement of the late war is not abandoned. Since that period, it is believed, the number of banks in the United States has been more than doubled. They have been established in the little inland towns and villages, and have brought distress and ruin upon the inhabitants. When the cause and the extent of the evil is known, no doubt is entertained that the appropriate remedies will be applied by those who, in our complex form of Government, are invested with the necessary authority.

But the resolution requires the Secretary of the Treasury "to report such measures as, in his opinion, may be expedient to procure and retain a sufficient quantity of gold and silver coin in the United States."

It has already been suggested that, if the currency was purely metallic, or connected with paper convertible into specie, to the extent only of the demand for the transmission of money, the United States would retain that proportion of the precious metals which the value of their exchangeable commodities bore to those of other states. But if paper can be made to circulate independent of its employment in the transmission of funds, gold and silver, to the same extent, will be exported. If paper will be received and employed generally as the medium of exchange, and especially if it is issued in bills of small denominations, the amount of specie which will be exported will be great in proportion to the paper in circulation. If this position be correct, the power of Congress will be insufficient to retain any considerable portion of gold and silver in the United States. Bank notes, from one dollar to those of large denominations, have circulated, and, it is presumed, will continue to circulate, independent of its authority. As long as bank notes will be received as a substitute for specie, the quantity of specie necessary for currency will be small, and may be easily retained without the aid of Government. But the demand for specie, where the circulation is principally paper, is extremely fluctuating. When there is but little or no demand for it, the temptation to increase their discounts, by the issue of more paper, is too strong to be resisted by banks. When a demand for specie arises, the currency has to be suddenly diminished by the contraction of their discounts. Fluctuation in the amount of the currency, produced by this means, is the principal mischief to be remedied. These fluctuations will frequently occur in every state where the currency is principally paper convertible into coin. In the United States, where the specie exported, as a primary article of commerce, to the East Indies and to China, bears so large a proportion to the metallic currency of the country, they must not only be more frequent than in states where no such commerce exists, but more extensive in their effects. The demand created for Spanish milled dollars, by the exportation of specie, in the prosecution of this trade, has, without doubt, caused their importation to an extent which otherwise would not have occurred. As this demand is, in some degree, contingent, the supply will also be contingent. When it exceeds the demand, the banks will be tempted to new issues of paper. When it is deficient, the deficiency will be drawn from the banks, and will cause a sudden diminution of the currency. If this diminution could be limited to the amount of the deficiency thus drawn from the banks, the evil would be no greater than if the currency were metallic. But this is not the fact. When the paper circulation is returned upon the banks for specie, prudence requires that an effort should be made to preserve the same proportion between the specie in their vaults and their notes in circulation, as existed at the moment the pressure commenced. If the paper in circulation should be three times the amount of specie in the possession of the banks, a demand upon them for $1,000,000 of specie would produce a diminution of $3,000,000 in the currency, if the specie should be exported, and of $2,000,000 if it remained in the country. It is even probable that the comparative diminution would exceed this ratio. As the demand increased, apprehensions would be excited for the credit of the banks; the exertions produced by that apprehension would correspond with the magnitude of the evil to be avoided, rather than with the positive pressure. This, it is presumed, would be the effect of such an emergency, where banks had not become familiarized with bankruptcy, and where not countenanced by society in a course of conduct which, in private life, would be considered dishonest.

If, by any constitutional exercise of the power of Congress, banks can be restrained, 1st, from issuing notes of small denominations, and 2d, from excessive issues when their notes are not returned upon them for specie, fluctuations in the currency to an extent to derange the interests of society, may be prevented. But if the imposition of these restraints are not within the constitutional powers of Congress, the evils which have been suffered for the want

of those restraints must continue until the present system of banking shall be abandoned.

In an inquiry into the state of the currency, the consideration of the coinage is necessarily involved. The principles upon which the coinage of the United States has been established, are substantially correct. The standard fineness of the gold coinage corresponds with the coinage of England and Portugal. The standard of the silver coinage differs but little from that of Spain. The American dollar is intrinsically worth about one per cent. less than the Spanish milled dollar. This difference, if the Spanish dollar had not been made a legal tender, might have secured to the nation a more permanent use of its silver coinage. American dollars would not be exported as long as Spanish dollars could be obtained for that purpose at a reasonable premium. If this latter coin was not a legal tender, the banks might afford to import it, and might sell at a fair premium the amount which might be required of them for the China and East India trade.

The relative value of gold and silver has been differently established in different nations. It has been different in the same nation at different periods. In England, an ounce of gold is equal in value to about 15.2 ounces of silver. In France, it is equal to 15.5; and in Spain and Portugal, to 16 ounces. In the United States, an ounce of gold is equal to 15 ounces of silver. But the relative value of these metals in the markets frequently differs from that assigned to them by the laws of the different civilized states. It is believed that gold, when compared with silver, has been for many years appreciating in value, and now every where commands in the money markets a higher value than that which has been assigned to it in states where its relative value is greatest. If this be correct, no injustice will result from a change in the relative legal value of gold and silver, so as to make it correspond with their relative marketable value. If gold, in relation to silver, should be raised five per cent., one ounce of it would be equal to 15.75 or 15¾ ounces of pure silver. This augmentation in its value would cause it to be imported in quantities sufficient to perform all the functions of currency. As it is not used to any considerable extent as a primary article of commerce, the fluctuations to which the silver currency is subject, from that cause, would not affect it. It would be exported only when the rate of exchange against the country should exceed the expense of exportation. In ordinary circumstances, such a state of exchange would not be of long continuance. If the currency of the United States must, of necessity, continue to be paper, convertible into specie, an increase of the gold coinage, upon principles which shall afford the least inducement to exportation, is probably the most wholesome corrective that can be applied, after the rigid enforcement of that convertibility

The copper coinage is believed to be susceptible of improvement. Copper itself is too massive to serve the purposes of change. One hundred cents are too cumbrous to be carried, and used in the numberless transactions which daily occur between individuals. Coin, compounded of silver and copper, of from one to ten cents, would be much more suitable for that object. This kind of coinage has been adopted in other countries with great advantage.

It has, however, been objected to this coinage—

1. That, as compounded metals are much harder than the component ingredients, it would be difficult, and, consequently, expensive to work.

2. That the coin itself would be of little or no intrinsic value, copper or brass being of superior value in the manufactures to which it might be applied; and that the public would scarcely submit to the circulation of a coin so worthless.

3. That it might be counterfeited by a composition of zinc and copper.

After giving to these objections their due weight, it is believed that a change of this nature in the copper coinage would be beneficial. Although the expense of such a coinage should be twice as much as that of an equal number of silver coin, still it might be advantageous. Small change, both of silver and copper, may be abundant in Philadelphia, the seat of the mint, but it is not generally so elsewhere. If it were, tickets of 6¼, 10, 12½, 25, and 50 cents, issued by mayors and corporation officers, and dollar bills torn in two pieces, for the purposes of change, would not be employed for that purpose. This single fact is an answer to the second objection. The fractional parts of a dollar are so indispensable in the transactions of individuals, that any thing which assumes that character will be employed. If the tickets which at this moment form so great a portion of the change of this city, and of various other places, are employed for that purpose, it is inconceivable that the community should refuse to permit a compound coin of silver and copper to circulate, containing the intrinsic value which it represents, merely because for manufactures it will not be worth more than brass or copper, and that the expense of refining will be equal to the value of the silver. Change, that is, the fractional parts of a dollar, is so indispensable to the community, that its inapplicability to manufactures, and its exemption from liability to exportation, instead of forming objections, are recommendations in its favor.

The objection that this coin may be easily counterfeited, is, if it cannot be obviated, entitled to great consideration. As has been before stated, this compound coinage has been successfully practised in other states. If compound metals are much harder than their component ingredients, may not a sufficient security against counterfeiting be derived from that circumstance? The dimensions and power of the machinery, which constitute one of the objections to the coinage, will render it extremely difficult to secure that secrecy and concealment which are indispensable to the success of the counterfeiter. If this compound coinage should not be carried higher than ten cents, or dime pieces, the inducement, compared with the danger of detection, resulting from the magnitude of the machinery, would not, it is believed, be sufficient to encourage counterfeiting. If, however, it should be deemed impracticable to guard against this evil, in a coinage composed of silver and copper, an attempt might be made to obtain a supply of small change, by a mixture of silver and zinc. The danger of counterfeiting would then be removed.

As various plans have been suggested during the last twelve months, for alleviating the general distress which has prevailed, by the emission of a large amount of Treasury notes, a few observations on that subject will close this part of the report.

If Treasury notes are to be issued for this purpose, they will be either receivable in all payments to the Government, or they will be made redeemable at a fixed period.

1. If they are made receivable in all payments to the Government, the revenue will, from the time that five millions of dollars are issued, be substantially received in them. The Government will be immediately unable to pay the interest and reimbursement of the public debt in specie, as it becomes due. These notes, when compared with the notes of the Bank of the United States, will be at a discount. The latter notes, independently of their being every where receivable in all payments to the Government, are convertible, at the place of their issue, into specie. They are equal to the Treasury notes in payment of the revenue, and superior to them, as they can command specie when the holder shall desire it.

If the fourteenth section of the bank charter was modified, so that the notes of the bank and of its offices should be receivable by the Government only when tendered

where they are made payable, a small amount of Treasury notes might be issued and circulated without depreciation. In that case, they would be used for the transmission of money, and would be in constant demand for that purpose. It is the reception of the notes of the Bank of the United States and its offices by the Government, wherever they are tendered, that causes them to be considered as a good remittance throughout the United States. If they should cease to be so received, a demand for Treasury notes, to a small amount, for the transmission of money, would be created, and would preserve them from depreciation. If the notes thus issued should be made redeemable at the Treasury, in specie, upon demand, the amount which might be put and retained in circulation would probably exceed, to a considerable extent, the sum demanded for the facile transmission of money. Such Treasury notes would, however, have no advantage over the notes of the Bank of the United States, as long as they are receivable in all payments to the United States, without reference to the place where they are payable. It is even probable that they would not be of equal value and currency with those notes, as the latter would generally be made payable in the principal commercial cities, where remittances are continually made, whilst the Treasury notes would be payable only at this place. If Treasury notes, payable in specie on demand, when presented at this place, should be preferred to the notes of the Bank of the United States, it would be in consequence of the abuses which have been practised by banking institutions, which have, in some degree, shaken the public confidence in the integrity of their direction.

2. If Treasury notes were to be issued, not receivable in payments to the Government, but redeemable at a fixed period, they would immediately depreciate, unless they bore nearly six per cent. interest. In the latter case, they would be of little more use, as currency, than the funded debt. They would not perform the functions of money.

3. In any case whatever, whether they are receivable in payments to the Government, or bear an interest, and are redeemable at a fixed period, they will afford no substantial relief where the distress is greatest, unless they should be advanced as a loan in order to alleviate that distress. If they are to be issued from the Treasury in discharge of the demands upon the Government, they would never reach those sections of country where relief is most required. *There*, the Government already collects more than can be expended. One of the causes of this distress is the necessity of transferring the public funds from those sections, for the purpose of being expended, to those where there is no deficiency of currency.

As a financial resource, the issue of Treasury notes is justifiable only where the deficiency which they are intended to supply, is small in amount, and temporary in its nature. As a measure of alleviation, it will be more likely to do harm than good. If a sufficient amount of those notes, of any description whatever, should be issued, and put into circulation where they are most wanted, unless they were given away, a debt in that part of the Union would be contracted to the extent of the issue. It might enable the borrowers to pay debts previously contracted, but their relative situation would be the same. Unless the currency became vitiated by the relief which was afforded, the ultimate payment of the debt would consummate the ruin which the measure was intended to prevent. But it is probable that the sums which might be advanced, by way of loan, would, in a great degree, be lost. The Government is not, from its nature, qualified for operations of this kind. The general system of credit which has been introduced by the agency of banks, and by the inevitable effect of the measures of the General Government, has produced an artificial state of things, which requires repression rather than extension. The issue of Treasury notes, for the purpose of alleviating the general distress, would tend to increase this unnatural and forced state of things, and give to it a duration which it would otherwise never attain. If much of the evil resulting from a decreasing currency had not already been suffered, there might be some plausible reason for urging the issue of Treasury notes, as a measure of alleviation. This ground cannot be urged in its favor; it is, therefore, indefensible, upon the ground of expediency, as well as of principle.

The last member of the resolution assumes, by implication, the practicability of substituting, by the constitutional exercise of the powers of Congress, a paper currency for that which now exists.

In considering this proposition, the power of Congress over the currency of the United States cannot, consistently with the respect which is due to that body, be either affirmed or denied. It cannot be supposed that the House of Representatives, in adopting the resolution in question, intended, through the agency of an executive department of the Government, to institute an inquiry as to the extent of the constitutional authority of a body of which it is only a constituent member. Yet it will necessarily occur to the House, that, if the power of Congress over the currency is not absolutely sovereign, the inquiry, whatever may be its immediate result, must be without any ultimate utility. The general prosperity will not be advanced by demonstrating that there is no intrinsic obstacle to the substitution of a paper for a metallic currency, if the power to adopt the substitute has been withheld from the Federal Government. Without offering an opinion upon the weight to which these views would have been entitled, had they been urged whilst the resolution was under consideration, it is admitted that they furnish no ground for declining the performance of the duty imposed by its adoption. In the discussion of a question of so much delicacy and importance, the utmost confidence is reposed in the justice and liberality of those who have rendered it indispensable.

At the threshold of this inquiry, it is proper to observe that it is deemed unnecessary to present an analysis of the motives which led, even in the most remote antiquity, to the general adoption, by civilized states, of gold and silver as the standard of value, or of the advantages which have resulted from that adoption. The circumstance to which, in the course of this investigation, it will be necessary to advert, is the tendency which a metallic currency has to preserve a greater uniformity of value than any other commodity, and the facility with which it returns to that value, whenever, by any temporary causes, that uniformity has been interrupted. No argument will, in this place, be offered in support of this proposition. It is founded in the experience of all nations. Its truth, for the present, will therefore be assumed. But the proposition itself admits that gold and silver, when employed by the consent of all civilized states as the standard of value, are subject to temporary variations of value. It is equally true that they are subject to permanent variations. The cause and effect of these changes will be considered previously to the discussion of the practicability of substituting a paper for metallic currency.

1st. When, by any circumstance whatsoever, a greater portion of these metals is found in a particular state than is possessed by other states having articles of equal value to be exchanged, they will, in such state, be of less value than in the adjacent states. This will be manifested by an increase in the price of the commodities of such state. This increase of price will continue until the metallic currency is exported, or converted into manufactures. Whenever this redundancy is disposed of, the currency will return to its former value, and the price of other commodities will be regulated by that value.

2d. But the exportation of specie may take place where

there is no such redundancy. This occurs whenever the general balance of trade continues for some time unfavorable to a particular state. The currency then appreciates in value, and the price of all other commodities in such state is diminished. As commerce is nothing more than the exchange of equivalents, the reduction in the price of the articles of such state, and the increased value of the currency, will promptly produce a reaction; and gold and silver will soon return in the quantities required, to reduce their value to that which they maintain in the adjacent states. With the return of specie, all other articles will return to the prices which they commanded before its exportation. Like fluids, the precious metals, so long as they are employed as the general measure of value, will constantly tend to preserve a common level. Every variation from it will be promptly corrected, without the intervention of human laws. These fluctuations, being temporary in their nature, are wholly independent of the permanent causes which may affect the value of gold and silver, when employed as the general standard of value. They will equally occur, whether the quantity of these metals, compared with the exchanges which they are destined to effect, be redundant or deficient. The limits, however, within which these fluctuations are confined, are so contracted, that the great interests of society cannot be seriously affected by them. But this observation must be understood to apply to a currency purely metallic, or, at least, when the paper which is connected with it does not exceed the demand for the convenient transmission of money.

3d. Gold and silver, when employed by the common consent of nations as the standard of value, are subject to variations in value from permanent causes. When their quantity is increased more rapidly than the articles which are to be exchanged through their agency, their price will fall; or, what amounts to the same thing, the price of all exchangeable articles will rise. It has been admitted by all intelligent writers upon this subject, that, immediately after the discovery of America, towards the close of the fifteenth century, a sudden and extensive depreciation in the value of these metals occurred; and that, from that time to the close of the eighteenth century, they continued gradually to depreciate. This depreciation, it is believed, has been accelerated during the last century, as much by the substitution of paper for specie, as by the increase in the quantity of those metals during that period, beyond the demand which would have existed for them, as currency, had that substitution not taken place. The precise effect upon the depreciation of these metals, produced by the partial substitution of paper in various countries for a metallic currency, will not now be inquired into; but it is generally conceded that the depreciation has been more rapid since that substitution than at any former period, except when the accumulated stock of ages in the new world was brought into Christendom, and thence distributed into every other region where gold and silver were in demand. Since the close of the last century, doubts have existed whether those metals, even when employed as currency, have not appreciated in value: and it is contended by the advocates of a paper currency that this appreciation will probably continue through a long succession of years, and seriously affect all the operations of the civilized world. It is maintained by these writers that the demand for currency, at present, throughout the world, is greater than the supply which the existing quantity of the precious metals will afford, without materially depressing the price of all the objects of human industry and human desires. When it is recollected that production is regulated by demand, and that both are directly affected by the quantity of currency compared with the quantity of articles to be exchanged, is is readily perceived that an increase in the currency of the world by the substitution of paper, even when convertible into coin, will increase the quantity of exchangeable commodities in the world beyond what would have existed had such an increase of currency not taken place. Under such circumstances, a sudden reduction of the currency, by the rejection of the paper which had been employed, could not fail to derange all the relations of society, by diminishing the quantity of currency, whilst the articles to be exchanged through its agency would suffer no such diminution. An immediate depression in the price of all commodities would be the inevitable consequence of an unqualified return to a metallic currency, upon the supposition that the quantity of gold and silver annually produced should remain undiminished. But, if this return to a metallic currency should be attempted at a period when the annual product of these metals, either from temporary or permanent causes, should have considerably decreased, all the great interests of society would be most seriously disordered; property of every description would rapidly fall in value; the relations between creditor and debtor would be violently and suddenly changed. This change would be greatly to the injury of the debtor; the property which would be necessary to discharge his debts would exceed that which he had received from his creditor; the one would be ruined without the imputation of crime, whilst the other would be enriched without the semblance of merit. Until the engagements existing at the moment of such a change are discharged, and the price of labor and of commodities is reduced to the proportion which it must bear to the quantity of currency employed as the medium of their exchange, enterprise of every kind will be repressed, and misery and distress universally prevail. When this shall be effected, the relations of society, founded upon a new basis, will be equitable and just, and tend to promote and secure the general prosperity.

Such, it is contended by the advocates of a paper currency, are the circumstances under which the principal states of Europe are endeavoring to return to a metallic currency. For a century past, the currency of these states has been greatly increased by the employment of paper, founded, it is true, originally upon a metallic basis. During the last twenty years, this paper has ceased to be convertible into specie; and, as no systematic effort has been made to prevent excessive issues, it has become redundant, and, consequently, depreciated. Notwithstanding this depreciation, the productions of those countries, it is believed, have more rapidly increased, than those of countries where a metallic currency has been preserved. The first efforts that are seriously made by those states to return to a metallic currency, will be the repression of enterprise of every description among themselves. It will be foreseen that the currency must appreciate, and that all other articles must depreciate in value. The effects of this appreciation of money will be first manifested in those states, by the fall of the price of all articles which cannot be exported. In the progress of these measures, the price of the exportable articles will also be affected by the reduction in the currency employed in effecting their exchange. It is even probable that the quantity of exchangeable articles will be diminished. Whilst the appreciation of the currency is perceptibly advancing, the manufacturer will not hazard his capital in producing articles the price of which is rapidly declining. The merchant will abstain from purchasing, under the apprehension of a further reduction of price, and of the difficulty of revending at a profit. It is even probable that the interest of money will fall, whilst the cry of a scarcity of money will be incessant. Under such circumstances, loans will not be required, except to meet debts of immediate urgency. None will be demanded for the prosecution of enterprises by which the productive energies of the community will be increased.

As the measures which have been adopted by Eng-

land, and several of the continental states of Europe, for returning to a metallic currency, advance, the interests of those states which have adhered to it will be affected. Whilst gold and silver were, in the former states, dispensed with as coin, they were sought for merely as commodities. The quantity necessary for their manufacturers was readily obtained, without deranging, in any serious degree, the currency of other states.

It has been estimated that from eighty to one hundred and twenty millions of dollars were necessary to England. Taking the mean sum, and admitting that the other European states engaged in the same effort, require an equal amount, a supply of two hundred millions of dollars is necessary. The commencement of the measures necessary to obtain that portion of this sum, which cannot, in a short time, be drawn from the annual product of the mines, may not be immediately felt by other states. But, when these measures approach their completion; when a large quantity of gold and silver is necessarily withdrawn from the currency of other states, the price of specie will, in the latter, appreciate, and the price of all commodities will decline. All the evils incident to an appreciating currency will be felt in those states, though in a less degree than where a paper currency had been exclusively adopted. The example presented by the return to a metallic currency in France, even in the midst of a revolution, which probably had some influence upon the decision of this question by other states, is believed to be, in no degree, analogous in its principal circumstances. At the precise period that this change was operating, England, and the principal continental states, abandoned the precious metals as currency. The supply demanded by France was not only at hand, but was seeking the very employment which that change had made indispensable. At the same time, immense sums were brought into France by her conquering armies, which, being raised by military contributions, had, in some degree, rendered a resort to paper currency, in the invaded states, necessary. At present, the civilized world is at peace, and each state is endeavoring, by systematic measures, to secure to itself a just participation of the benefits of equal and reciprocal commerce. The states which are now attempting to return to a metallic currency, will find much greater difficulty in effecting this change, than was experienced by France.

The demand for gold and silver, as the medium of exchange, cannot be supplied until the price of all exchangeable articles has fallen in proportion to the reduction of the currency which the abandonment of paper must produce. It is even probable, as has been before suggested, that, after the price of commodities and of labor shall have fallen, so as to bear a just proportion to the currency which is to be employed in effecting the necessary exchanges, that the currency will continue gradually to appreciate. This, however, is matter of conjecture. It depends entirely upon the fact, whether the annual produce of the mines, after furnishing the quantity necessary for the consumption of the precious metals in manufactures, will be equal to the increased demand for currency, arising from the increase of exchangeable commodities throughout the world. The great advancement in the arts and sciences, the rapid improvements in machinery, which characterize the present age, acting through a long succession of ages, cannot fail to augment, in an astonishing degree, all the products of human industry.

It may, however, be urged, that the same improvements will augment, in an equal degree, the product of the mines; and that, therefore, the quantity of the precious metals in the world will continue to bear to other commodities the same relation which they may assume when the return to a metallic currency is effected. This may be true; but, so far as it depends upon the general principle, that the supply of all articles is regulated by the demand, there is reasonable ground of doubt. The maxim, although good as a general rule, admits of exceptions. A demand beyond the supply increases the price of the thing demanded, and invites to the investment of additional capital in its production. But, when the article demanded is to be produced from a material which no investment of capital, no application of skill can augment, the only effect of such investment and application is to produce the most which the material has the capacity to furnish. Such, in fact, is the case of gold and silver. The material from which they are made, is limited in quantity, which neither capital nor skill can augment. It is probable that the improvements in machinery, and the art of refining, will be counterbalanced by the exhaustion of the mines, or the difficulty of working them, arising from the depth and extent of their excavations. It is therefore possible that the demand for the precious metals, for currency, and for manufactures, may exceed the production of the mines.

Previously to entering upon the immediate discussion of the practicability of substituting a paper for a metallic currency, it is proper to observe that gold and silver derive part of the uniformity of value which has been ascribed to them, from the general consent of civilized states to employ them as the standard of value. Should they cease to be used for that purpose, they would become more variable in their value, and would be regulated, like all other articles, by the demand for them, compared with the supply in any given market. It is presumed that, if they should cease to be employed as the standard of value by several states, their uniformity of value would be in some degree affected, not only in those states where they were considered as mere commodities, but in those where they were still employed as currency. Whenever, as commodities, they should rise in value, a drain would take place from the currency of other states; and when they should fall in value, as commodities, they would seek employment as currency, and render, in some degree redundant, the currency of the states where they are employed. After making due allowance for the depreciation of bank notes in England, from the time of the bank restriction, in 1797, to the present period, the price of gold and silver in that country is believed to have varied more than at any former period. Their price, when compared with bank notes, from the year 1797 to 1808, showed but a slight degree of depreciation; considerably less, in all human probability, than actually existed. During that interval, the demand for those metals was limited in England to the sum required for manufactures. It is highly probable that if the quantity of the paper circulation had been reduced to the amount of the currency in circulation at the time, or for one year before the restriction, the price of bullion would have been below the mint price. On the contrary, in the year 1808, when the employment of a British force in Spain created a sudden demand for specie, the depreciation of bank notes, indicated by the price of bullion, was probably greater than that which really existed. In the year 1814, after the treaty of Paris, the price of bullion, estimated in bank paper, was not above the mint price; whilst, in the succeeding year, it rose to more than 20 per cent. above that price: the amount of bank notes in circulation at the former, exceeding in a small degree, that of the latter period. It is impossible that these variations in the price of gold and silver, in the short space of one year, can be entirely chargeable to the depreciation of bank notes. The effect which these variations, in a great commercial state, where the precious metals were considered only as commodities, were calculate to produced upon the currency of the neighboring states, has not been ascertained. The convulsions to which most of these states were subject during that period, may account for the

want of sufficient data to elucidate the subject. It is, however, highly improbable that these fluctuations were not sensibly felt by them.

Having considered the nature and extent of the variations in value, to which a metallic currency is necessarily subject, it remains to examine whether it is practicable to devise a system by which a paper currency may be employed, as the standard of value, with sufficient security against variations in its value, and with the same certainty of its recovering that value, when, from any cause, such variations shall have been produced. It is distinctly admitted that no such paper currency has ever existed. Where the experiment has been made directly by Government, excessive issues have quickly ensued, and depreciation has been the immediate consequence. Where the experiment has been attempted through the agency of banks, it has invariably failed. In both cases, instead of being used as a mean of supplying a cheap and stable currency, invariably regulated by the demand, for effecting the changes required by the wants and convenience of society, it has been employed as a financial resource, or made the instrument of unrestrained cupidity. In no case has any attempt been made to determine the principles upon which such a currency, to be stable, must be founded. Instead of salutary restraints being imposed upon the moneyed institutions which have been employed, the vital principle of whose being is gain, they have not simply been left to the guidance of their own cupidity, but have been stimulated to excessive issues, to supply deficiencies in the public revenue. This is known to have been the case, in an eminent degree, in the experiment which has been attended with most success. The issues of the Bank of England, on account of the Government, were frequently so great as to destroy the demand for discounts by individuals. In consequence of these excessive issues, the interest of money fell below five per cent, the rate at which the bank discounted; the demand for discounts at the bank therefore ceased. It is, indeed, not surprising that no systematic effort has been made to restrain excessive issues. In the case of banks, the experiments which have been made were intended to be temporary; they were the result of great and sudden pressure, which left but little leisure for the examination of a subject so abstruse. The employment of a paper circulation, controvertible into specie, the favorite system of modern states, having, as has been attempted to be shown in a previous part of this report, the inevitable tendency to produce the necessity of resorting, in every national emergency, to paper, not so convertible, imposes upon those who are called to administer the affairs of nations the duty of thoroughly examining the subject, with a view, if practicable, to avoid that necessity. If the examination does not result in the establishment of a paper currency, unconnected with specie, it may lead to the imposition of salutary checks against excessive issues, when the necessity of suspending payment may occur.

It has already been said that every attempt which has been made to introduce a paper currency has failed. It may also be said that of all the systems which, during the discussion of this interesting subject, both in Europe and the United States, which have been proposed, none are free from objections. It is possible that no system can be devised, which will be entirely free from objection. To ensure the possibility of employing such a currency with advantage, it is necessary—

1. That the power of the Government over the currency be absolutely sovereign.
2. That its stability be above suspicion.
3. That its justice, morality, and intelligence, be unquestionable.
4. That the issue of the currency be made not only to depend upon the demand for it, but that an equivalent be actually received.
5. That an equivalent can only be found in the delivery of an equal amount of gold or silver, or of public stock.
6. That whenever from any cause it may become redundant, it may be funded at an interest a fraction below that which was surrendered at its issue.

1. This proposition needs no elucidation. Coinage, and the regulation of money, have, in all nations, been considered one of the highest acts of sovereignty. It may well be doubted, however, whether a sovereign power over the coinage necessarily gives the right to establish a paper currency. The power to establish such a currency ought not only to be unquestionable, but unquestioned. Any doubt of the legality of the exercise of such an authority could not fail to mar any system which human ingenuity could devise.

2. A metallic currency, having an intrinsic value, independent of that which is given to it by the sovereign authority, does not depend upon the stability of the Government for its value. Revolutions may arise; insurrections may menace the existence of the Government: a metallic currency rises in value under such circumstances; it becomes more valuable, compared with every species of property, whether moveable or immoveable, in proportion to the instability of the Government. Not so with a paper currency; its credit depends, in a great degree, upon the confidence reposed in the stability of the authority by which it was issued. Should that authority be overthrown by foreign force, or intestine commotion, an immediate depreciation, if not an absolute annihilation, of its value would ensue.

3. It might, however, be saved from such destruction by a well-grounded confidence in the justice and intelligenec of the Government which should succeed that which had been overthrown. The history of modern times furnishes examples that are calculated to inspire this confidence. In France, during the revolution which has just terminated, the public debt was reduced to one-third of its amount. The same rule was applied to the public debt of the Dutch republic, when it fell under French domination. In the successive political changes to which France has, since that period, been subjected, the public debt and the public engagements have been maintained with the strictest good faith. In Holland, that portion of the public debt which had been abolished by the French Government has been restored. In the opinion of well-informed men, however, the conditions connected with that restoration were so onerous as to render it almost nominal. Indeed, the public debt in that country had become so disproportionate to the means of the nation when deprived of the resources it enjoyed when the debt was contracted, that the reduction which it underwent while the country was annexed to the French empire was not generally considered an evil. The reduction of the national debt of France during the revolution, was perhaps equally indispensable. If the intelligence of the age, and the influence of public opinion, even in states where the reign of law was but imperfectly established, have been sufficient to induce the Governments which have alternately succeeded each other for the last twenty-five years in France and Holland, to respect the public engagements which had been previously contracted, well-grounded expectations may be cherished that the period is rapidly passing away when the public faith of nations can be violated with impunity.

If public engagements, under such circumstances, have been considered obligatory upon those who have successively administered the affairs of those nations, a reasonable confidence may be reposed in the fulfilment of the obligations which may be contracted by existing Governments, where the reign of law is firmly established. It is not denied that a paper currency furnishes strong temptations to abuse. Millions may be issued in a few days; and the deficiencies in the revenue promptly supplied, if the condition of receiving an equivalent is abandoned. The

moment the currency shall be issued as a financial resource, depreciation will follow, and all the relations of society will be disturbed. If the Government of the nation in which a paper currency has been established, shall be deeply impressed with this truth, will it not be restrained from the apprehended abuse? Currency of every kind is liable to great abuses. The history of the coinage of every nation whose annals are known, is little more than a detail of the frauds which have been practised by Governments upon the people. Until the twentieth year of the reign of Edward III of England, a pound troy of silver of standard fineness, and a pound sterling, were synonymous terms: twenty shillings sterling being, in fact, a pound troy of standard silver. Change followed change in rapid succession, until, in the reign of Elizabeth, a pound troy of standard silver was directed to be coined into sixty-two shillings. This immense change in the value of the currency was effected in the space of about two centuries. In other modern states, during the same period, changes not less important occurred in the coinage. Frequently, these changes were effected by deteriorating the standard fineness of the coin. For more than a century past, the coinage of the civilized world has undergone no material change with a view to the practice of fraud upon the people. Whether this forbearance is to be attributed to an improvement in the morality of modern Governments, or to a more correct understanding of the principles of currency, and of the consequences that must result from every change by which the relations of society are affected, it furnishes just ground of expectation that they will not hereafter be attempted. Nothing more is necessary to secure an unalterable adherence to the maxims upon which it is manifestly necessary that a paper currency must be founded in order to preserve a uniformity of value, than the same morality and the same intelligence. Without assuming the principle of the perfectibility of human nature, the hope may be indulged, that the nature of currency will continue to command the attention of statesmen, and that the abuses which have resulted from improper changes in the currency will not again occur in the same degree.

4. When the currency is metallic, no addition can be made to it without giving an equivalent. It is indispensable that this condition should be annexed to the acquisition of the paper currency, preliminary to its entering into circulation. If it can be put in circulation, only on paying its nominal amount in that which has a general and fixed value, determined by the consent of other nations, it will continue to preserve that value during the time it circulates, unless the relation which it bore at the time of its issue to the quantity of articles, the exchanges of which it is destined to perform, shall be varied.

5. As a paper currency is issued upon the national credit, the whole property of the nation is pledged for its redemption, whenever, by any circumstance, it may become the interest of the community that it should be redeemed. It is, therefore, manifest that it should not issue upon the credit of any individual, or association of individuals. A part can never be equal to the whole. The credit of any individual, or association of individuals, cannot be equivalent to that of the nation of which they form a part. But, it may be said that, although the credit of individuals is not equivalent to the credit of the nation, yet an equivalent for a particular portion of that credit may be found in the pledge or mortgage of property of equal or greater value than the currency issued upon it. This may be true; but the value of property has been continually fluctuating: it will continue to fluctuate, after giving to the advocates of a paper currency full credit for the superior stability which, they suppose, will attend its substitution for gold and silver as the standard of value. But this is not the only objection to the acceptance of property as a pledge for the payment, by individuals, of an equivalent for the paper currency which may be advanced upon such pledge. Frauds will be practised by pledging property which is encumbered, which it would be extremely difficult to detect. The Government will be involved in endless litigation with individuals who are interested in the encumbrances by which its rights to the property pledged is embarrassed. In such contests, the interest of the Government is always endangered, even where right is on its side. It is not qualified to enter into such litigations with an equal chance of success. The feelings of the community are always, except in flagrant cases of fraud, upon the side of an individual, supposed to be struggling with the overwhelming influence of authority. Besides, in all contests of this nature, something of the respect for the Government, which ought to be cherished by the citizens, especially of a free state, will be lost. The situation is invidious, and ought not voluntarily to be assumed by a Government jealous of its dignity and purity of character. It is, therefore, believed that a national currency cannot be issued with safety, with a reasonable prospect of success, and with sufficient security against redundancy, but in exchange for gold and silver of a definite standard, or for the public stock at certain fixed rates. When issued in exchange for them, and for them alone, there is, though not the same, yet perhaps an equal security against redundancy, as in the case of a metallic currency. When it is issued in exchange for coin, there is no addition made to the currency. When it is issued in exchange for public stock, commanding, previously to the exchange, its par value in coin, the party who acquires the currency parts with that which was equal to specie, and is deprived of the annual interest which it produced. Unless the interest of the currency resulting from its scarcity should exceed that paid upon the stock, it would not be demanded in exchange for the stock. In either case, the danger of redundancy is extremely remote. By the exchange of specie for currency, the active capital of the country will be increased to the amount of the currency; and the capacity of the nation to redeem it, whenever it shall, by any circumstance whatever, become expedient, will be unquestionable.

But it may be doubted whether, under such conditions, a paper currency ever can be put in circulation. Under a Government firmly established, conducted by upright and enlightened councils, and possessing absolute power over the currency, it is believed there is no just reason to apprehend a difficulty of that nature. If, in such a Government, banks existed, deriving their powers from it, the specie in their possession would be gradually exchanged for the paper currency which would become the basis of their operations. Not only the specie which they possessed would be thus exchanged, but exertions would, from time to time, be made to acquire the sums necessary to support their banking operations. Specie would be imported even at an expense, for the purpose of being exchanged. Whilst specie formed the basis of the operations of banks, its importation could not fail to be productive of loss. Each importation not only produced the necessity of additional importations, but at an increased expense. But, when importations shall be made for the purpose of being exchanged for the currency, the exportation of the specie thus imported will not affect the operations of the banks. It is only when the funding of the currency shall commence, that they will be admonished to desist from further importations. Individuals and banks would likewise exchange public stock at the rates prescribed by the system for the paper currency. Whenever the demand for currency should be such as to raise the interest of money considerably above that produced by the public stock, it would by banks and individuals be given in exchange for the currency. But the facility which the existence of a public debt furnishes in procuring the paper currency, is counterbalanced by the difficulty of

complying with the public engagement to discharge such debt in a metallic currency. After a paper circulation shall be substituted for gold and silver, they will be found in the country only in the quantity demanded for manufactures, and for such branches of commerce as are entirely dependent upon them. A considerable demand for gold and silver by the Government, to meet its engagements previously contracted, would raise their price in the market, and render the obligation to discharge those engagements, in the precious metals, not only extremely onerous, but perhaps sometimes impracticable. In such a state, a compromise with the public creditors would seem to be a preliminary measure. This, under any circumstances, would be a measure of great delicacy and difficulty, and, in some cases, would probably be utterly impracticable.

6. Whenever, from any cause, the currency should become redundant, the redundancy may be funded at a rate of interest a fraction below the rate of legal interest.

In determining the rate at which it may be funded, due regard should be paid to the rate of interest previously existing in the state. The rate of interest, it is conceived, ought not to depend, and, where a metallic currency prevails, does not depend, solely upon the amount of currency necessary to perform, with facility, the exchanges required by the wants and convenience of society. In a new country, where there is but a slight accumulation of capital, the interest of money will be high, notwithstanding there may be even a redundancy of currency beyond what is necessary to effect its changes. In such a country, all the objects upon which capital may be employed, except those of the most simple kind, are unoccupied. The currency necessary to effect the exchanges of its property, moveable and immoveable, will be entirely insufficient to satisfy the demand for capital for those objects. If it should be multiplied so as to equal that demand, it would exceed the demand for the necessary exchanges of society, and, consequently, depreciate. Such, in fact, it is believed, would be the consequence of issuing the currency upon individual credit, or upon a pledge of property, at a rate of interest below that which previously existed in the state. Any change of the interest of money by law, previous to its having taken place in individual transactions, in consequence of the accumulation of capital, would be unjust, and could not fail to produce serious inconvenience to the community. Admitting the rate of interest, in a state about to make the experiment, to be six per cent., then the currency should be issued only in exchange for specie or six per cent. stock, or other stock according to that ratio. If the currency should, when, by any means, a redundancy existed, be fundable at five and a half per cent. interest, the utmost depreciation to which it could be subject would be eight and one-third per cent. But it is probable that the real depression in its value would not, at any time, be more than half that amount. Before funding would commence, the public stock, receivable in exchange for the national currency, would be above the rates at which it was receivable. Its issue upon the exchange of stock would, therefore, have ceased. There are, in every community, capitalists who would prefer lending to the Government at five and a half per cent., than to individuals at six. The funding of the currency would, therefore, begin before the redundancy would offer any general inducement to that mode of reducing it. The variation to which its value would be subject, would therefore be less than eight and one-third per cent. It would be the interest of the Government to reserve the right of redeeming the stock created by funding, at its par value; under the condition, however, of redeeming it according to the order of time in which it was created. Connected with this system should be a permission to the banks to purchase public stock, but not to dispose of it, except to the Government, at its par or current value, when under par, unless the Government should decline the purchase. The currency, upon being funded, should be invariably cancelled. Under a system of this kind, if no other paper was permitted to circulate, than the national currency, a redundancy which would affect its value could only occur by a temporary diminution of the articles which were to be exchanged through its instrumentality. In that event, the price of the articles would be enhanced, so as to require a greater amount of currency to effect their exchange. Should the price not be enhanced, in proportion to the diminution in the quantity of the articles, that portion of the currency which would, under such circumstances, be left without employment, would be funded. A just relation between the amount of currency, and the demand for it, would be promptly restored without affecting, injuriously, the relations between individuals. On the other hand, should a greater quantity of exchangeable articles be produced, the demand for currency would exceed the supply, and lead immediately to additional issues, until the necessary supply should be obtained.

But, in a state where banks already existed, which derived their charters from the sovereignty that regulated the currency; where the people were accustomed to bank notes, and in the habit of receiving them, the agency of these institutions might be admitted in supplying a portion of the currency. They might be permitted to issue their notes, payable on demand, in the national currency. Their notes would, of course, be issued on personal security. In this case, the currency might become redundant by the issues of the banks. Whenever this should happen, the national currency would be demanded of them for the purpose of being funded; the banks would be compelled to curtail their discounts, to relieve themselves from the pressure, and the amount of the currency would be promptly reduced to the legitimate demand. Wherever the agency of banks should be employed in furnishing part of the circulation, a refusal, or omission, to discharge their notes on demand, in the national currency, should be treated as an act of bankruptcy. The national currency being a legal tender in the payment of debts to individuals and to the Government, would, in relation to the banks, perform the functions of specie, where bank notes are convertible into coin. But, in order to impose a salutary check against excessive issues of bank notes, the national currency should alone be receivable in all payments to the Government.

In an attempt to trace the probable results of a paper currency, founded upon the principles which have been developed in the preceding pages, the influence which it will have upon foreign exchange requires investigation. The want of stability, morality, and intelligence in the Government which may undertake to substitute a paper for a metallic currency, are the objections which have already been considered. To these, according to common opinion, is to be added the injurious effect which, it is supposed, it will have upon foreign exchange. In a country where the currency is metallic, an unfavorable state of foreign exchange will probably have the following effects:

1st. To raise the price of exportable articles as much above that which they ought to bear, as the premium paid upon foreign bills, until it exceeds the expense of exporting specie to the foreign market.

2d. When this rise exceeds the expense of such exportation, the price of exportable articles will fall gradually below what they ought to command, to the extent of that excess.

3d. Until this fall in their price shall be effected, specie will be exported; after which, it will cease.

4th. This fall in their price, by increasing their consumption in the foreign markets, ultimately provides for the return of the specie which had been exported.

5th. During the second and third stages of this process, the price of all articles not exportable is affected in a

greater degree; enterprise is damped, and distress prevails.

Such are the necessary effects of an unfavorable state of foreign exchange where the currency is metallic. As the vital principle of commerce is gain, it is probable that, generally, the price of exportable articles would, in fact, be rather higher than is stated in the preceding deductions; the timid might export specie, before the premium upon exchange exceeded the expense of its exportation; but timidity is not the predominant characteristic of commercial enterprise. On the other hand, the sanguine and enterprising, relying upon the chance of better markets, would give higher prices, rather than submit to certain loss upon the exportation of specie or the purchase of bills above par.

In a country where a paper currency has been adopted, and the principles by which a redundancy may be prevented have been enforced, an unfavorable state of foreign exchange will probably have the following effects:

1st. The effect of raising the price of exportable articles as much above what they ought to bear, as equals the premium upon foreign bills. But, in this case, gold and silver being exportable articles, will raise in the same proportion as all other articles.

2d. When the price of all articles is raised so high that a loss will be incurred by their sale in foreign markets, those who have no remittances to make will withdraw from the competition. If profitable investments in other enterprises cannot be made, a portion of the currency at their disposition will be withdrawn from circulation, by being converted into funded stock; competition will, in this manner, be diminished; the price of articles for exportation will be reduced by the reduction of the currency, and by diminished competition among the purchasers. It is not probable, however, that the price will fall so low as to admit of a profit in foreign markets, as long as the premium upon exchange continues above the ordinary commercial profit upon exported articles. But exportation will not be continued at a certain loss longer than the discharge of debts previously contracted renders indispensable; foreign articles will not be imported, when the loss upon remittances, whether made by bills of exchange, or by the exportation of commodities, is equal to the profit upon importation; the high price given for exported articles will increase their production, and restore foreign exchange to a favorable state. The balance of trade, and the rate of foreign exchange, which have given so much trouble to statesmen for two centuries past, when left to the laws by which they will be governed, in despite of human devices, as invariably regulate themselves, as fluids, when unrestrained, find their common level. They will, probably, more promptly conform to these laws in a state where a well-regulated paper currency prevails, than where it is metallic. In the latter, the currency is exported to make up any temporary deficiency, and by that means provides against the recurrence of the evil, by indirectly causing an increase of the exportable articles of the state, and diminishing the importation of foreign articles. Until the capacity to purchase these by the exchange of articles shall be restored in the former, as the currency cannot be exported, the importations will be more promptly reduced to the capacity of the country to purchase, whilst the increase of its exportable articles will be the direct, instead of the indirect consequence of a temporary incapacity to pay for previous importations.

3d. During the whole process of restoring a favorable state of exchange, in a country where a well-regulated paper currency prevails, the price of all articles, not exportable, will suffer no material variation. The funding of the currency, which will probably take place, will not be, immediately, carried so far as to reduce the price of exportable articles so as to command a profit in foreign markets. They will, so long as the rate of exchange is unfavorable, continue to command higher prices than when the exchange is favorable. This increased price will encourage industry and enterprise, and constantly tend to augment the productive energies of the community. This effect cannot fairly be attributed to any depreciation in the currency. That will continue to bear nearly the same proportion to the exchangeable articles of the state, as when foreign exchange was favorable. It is probable even that its relation to those articles will be changed, so as to produce an appreciation of the currency; and that this appreciation will be perceived, in a slight degree, in the depression of the value of all articles not exportable. The effects of this appreciation will, however, be diminished by the impulse given to industry and enterprise, by the increased price of all articles which can be exported.

These are conceived to be the effects which a well-regulated paper currancy will have upon the foreign exchanges, and upon the domestic industry of the country which may adopt it. If the value of currency depends, like that of all other articles, upon the quantity compared with the demand, the idea of its depreciation in raising the price of articles in the case which has been considered, must be rejected. That this position is incontrovertible, seems to have been admitted by all writers upon the subject. This admission is founded in the reports which have been made to the British Parliament; in the evidence upon which those reports have been founded; and in the essays of those who have opposed the paper system in that country, since the year 1797. The objection to the paper system, as it existed in England, was the absence of all restraint upon the issue of paper, and the supposed impossibility of imposing any efficient restraint. In fact, no attempt has been made to impose such restraint in that country, unconnected with the convertibility of bank notes into the precious metals So far as this restraint is limited to the convertibility of bank notes into bullion, at any given rate, it is rather an attempt to regulate foreign exchange through the instrumentality of the bank, than to confine the issue of bank notes to the sound demand for currency. The restraint imposed seems to rest upon the idea that an unfavorable state of foreign exchange must be the result of a redundant currency. Nothing can be more incorrect than this hypothesis. Considering the vitiated state of the currency of England for more than twenty years past, it is not surprising that this idea should there be entertained. During that period, the unfavorable rate of foreign exchange which generally prevailed, was, if not directly, at least indirectly, attributable to the depreciation of their currency. But, in this interval, a favorable rate of foreign exchange more than once occurred. To what could this favorable exchange be attributed? Certainly not to the depreciation of their currency. But it would be as unjust to attribute every unfavorable state of foreign exchange to the depreciation of the currency, as to ascribe to that currency the credit of any favorable state of such exchange. The truth is, that fluctuations in the exchange, between two countries having a metallic currency, continually occur, and depend upon principles wholly unconnected with the idea of a depreciated currency.

If these views be correct, the only obstacle to the establishment of a paper currency, by a Government having a sovereign right to establish it, is the danger of the instability and want of integrity and intelligence of the Government. There is, certainly, just reason to apprehend that emergencies may arise in the affairs of every nation, in which their stability may be menaced by foreign force or domestic insurrection. In such an event, a panic might ensue, and the credit of the currency be utterly annihilated. How far the recent examples which have been adverted to in other states—how far the influence of public opinion over the conduct of Governments may be relied

upon as an efficient preventive against evils of such magnitude, must be determined by those to whom, under Divine Providence, the prosperity and happiness of nations are committed. The subject involves all the complicated interests of society, except the enjoyment of civil, political, and religious liberty. It ought to be approached with more than ordinary circumspection. In states the best qualified to attempt the change, it is environed with doubts, which can only be dispelled by the light of experiment. In the United States these doubts are greatly increased by the complex form of the Government. In the division of power between the Federal and State Governments, the line of separation is not sufficiently distinct to prevent collisions, which may disturb the harmony of the system. Collisions have already arisen, and in the course of human events, may be reasonably expected to arise, until the line of separation by which their relative powers and duties are determined, shall be distinctly defined by practice, or by explanatory amendments of the constitution, effected according to the forms prescribed in that instrument. Upon no question will collision more likely arise than that contemplated by the resolution under which this report is submitted. No attempt to make the change has succeeded. The measure, when stripped of extraneous difficulties, must be admitted to be of doubtful tendency. Under the most auspicious circumstances, it may prove abortive. Under circumstances in any degree adverse, it must enevitably fail. Any obstacle opposed to its execution, by one or more of the State Governments, would be decisive of its fate. Their simple acquiescence in the measure would not be sufficient to secure to it that issue to which the principles upon which it might be established would necessarily lead. Their active co-operation would be indispensable. The banks which derive their authority from the State Governments are generally bound by their charters to discharge their notes in specie on demand. From this obligation it would be necessary to the system to relieve them. The obligation to discharge their notes upon demand, in the national currency, should be substituted for that of paying them in specie.

If these obstacles should be removed, that connected with the public debt, which has been suggested in a previous part of the report, would still remain. After the substitution of the national currency, gold and silver would be imported only in the quantity required for manufactures, and for the prosecution of those branches of trade in which they are primary articles of commerce. For these purposes, the importations would be sufficient. They might even be sufficient, and at a reasonable price, for the payment of the annual interest of the public debt. But, after the year 1824, when the sum of $10,000,000 would annually be expended by the Commissioners of the Sinking Fund, it is probable that the premium which would be paid upon it would be considerable, until the debt was extinguished. A compromise, as has already been suggested, with the public creditors, would seem to be a measure preliminary to any attempt to establish a paper currency. It is more than probable that the attempt would not only be unsuccessful, but that it would injuriously affect the public credit.

It may also be proper to observe that those sections of the Union where a measure of this kind would be most likely to be acceptable, would probably derive from it the least benefit. In the West and in the South, the complaints of a deficient currency have been most distinctly heard. In the latter, these complaints are of recent date. In both they proceed in a greater degree from the disbursement of the public revenue than from any other cause. The great mass of public expenditure is made to the east of this city. The revenue accruing from imports, though principally collected in the Middle and Eastern States, is paid by the great mass of consumers throughout the United States. That which is paid for the public lands, although in some degree drawn from every part of the Union, is principally paid by the citizens of the West and of the South. The greatest part of the revenue accruing from the public lands, as well as that collected in the Southern States, upon imports, has been transferred to the Middle and Eastern States to be expended. The necessity of making this transfer arises from the circumstance that the great mass of the public debt is held in those States, or by foreigners, whose agents reside in them; and from the establishment of dock yards and naval stations in their principal ports. This transfer will continue to be necessary until the public debt shall be extinguished, and until the other expenditures of the Government can, consistently with the public interest, be more equally distributed. If a national currency should be established, the demand for it in the Southern and Western States, for the purpose of transmission, would be incessant; whilst its return, by the ordinary course of trade, especially in the latter, would be slow and in some degree uncertain. The currency, being every where receivable by the Government, would, for the purpose of remittance, be more frequently demanded in that section than specie, for the same reason that the notes of the Bank of the United States and its offices command there, at this time, a premium in specie. As the transfers of the public money are made by the Bank of the United States, the excitement produced by the demand for specie, or funds that can be remitted, consequent upon such transfers, has been directed against that institution. All the evils which the community, in particular parts of the country, has suffered from the sudden decrease of the currency, as well as from its depreciation, have been ascribed to the Bank of the United States, which, in transferring the public funds, has been a passive agent in the hands of the Government.

It is then believed that the evils which are felt in those sections of the Union where the distress is most general, will not be extensively relieved by the establishment of a national currency. The sufferings which have been produced by the efforts that have been made to resume and to continue specie payments, have been great. They are not terminated, and must continue until the value of property, and the price of labor, shall assume that relation to the precious metals which our wealth and industry, compared with those of other states, shall enable us to retain. Until this shall be effected, an abortive attempt, by the substitution of a paper currency, to arrest the evils we are suffering, will produce the most distressing consequences. The sufferings that are past will, in such an event, recur with additional violence, and the nation will again find itself in the situation which it held at the moment when specie payments were resumed.

I have the honor to be,

Your most obedient servant,

WM. H. CRAWFORD.

The honorable the Speaker
of the House of Representatives.

In Senate, *February* 5, 1834.

Mr. Webster, from the Committee on Finance, made the following report:

The Committee on Finance, to whom have been referred the report of the Secretary of the Treasury of the 3d December, 1833, on the removal of the public deposites from the Bank of the United States, and a resolution, submitted to the Senate by an honorable member from Kentucky, declaring that the reasons assigned by the Secretary for the removal of the said deposites are unsatisfactory and insufficient, have agreed on the following report:

The act incorporating the Bank of the United States, as is justly remarked by the Secretary, is a contract, con-

taining stipulations on the part of the Government and on the part of the corporation, entered into for full and adequate consideration.

The Government became party to this contract by granting the charter, and the stockholders by accepting it. "In consideration," says the charter, "of the exclusive privileges and benefits conferred by this act on the said bank, the president and directors thereof shall pay to the United States, out of the corporate funds thereof, one million and five hundred thousand dollars, in three equal payments;" and, in another section, it declares that "during the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall give the necessary facilities for transferring the public funds from place to place within the United States, or the Territories thereof, and for distributing the same in payment of the public creditors, without charging commissions, or claiming allowance on account of difference of exchange; and shall do and perform the several and respective duties of the commissioners of loans for the several States, or any one or more of them, whenever required by law."

The section immediately following this provision is in these words: "*And be it further enacted*, That the deposites of the money of the United States, in places in which the said bank or branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and, if not, immediately after the commencement of the next session, the reasons for such order or direction."

It is not to be denied or doubted that this custody of the public deposites was one of the "*benefits*" conferred on the bank by the charter, in consideration of the money paid, and the services undertaken to be performed by the bank to the Government; and to this custody the bank has a just right, unless such causes have arisen as may have justified the Secretary in giving an order and direction for changing that custody. Any order or direction, therefore, issued under the provisions of this law, necessarily involves a consideration of the just extent of the Secretary's power, and of the rights of the bank.

But Congress, in making this provision, unquestionably had in view the safety of the public funds, and certain important financial objects, as well as the making of a just consideration to the bank for the sum paid and the services undertaken by it; and with this view, also, it has expressed its will that the deposites shall continue to be made in the bank until good cause shall arise for ordering otherwise. Of this good cause, the Secretary of the Treasury, in the first instance, and Congress, ultimately and conclusively, is constituted the judge. Every order, therefore, of the Secretary for changing the deposites, presents for the examination of Congress a question of general political propriety and expediency, as well as a question of right and obligation to the bank.

These questions may be considered together. They are intimately connected; because the right of the bank to retain the deposites, and to enjoy the advantages to be derived therefrom, cannot be denied, unless a case is shown to have arisen within the just power of removal vested in the Secretary, and which made it his duty to exercise that power. The Secretary is only to remove the deposites for reasons. Of these reasons he is to give an account to Congress. If they be insufficient to justify the removal, the bank has a right to a return of the deposites, and the country has a right also to expect that, in that case, the public treasure will be restored to its former place of safety.

The Secretary having removed the deposites, and having reported his reasons to both Houses, the whole subject is now before Congress by way of appeal from his decision; and the question is, whether that decision ought to stand, or ought to be reversed.

The power of the Secretary, under the law, is evidently but provisional. It is a power which he may exercise in the first instance; but the propriety of his conduct, in every instance of its exercise, is ultimately referred to the wisdom of Congress, and by Congress it must be judged. He is authorized to do the act, but Congress is to examine it when done, and to confirm or reverse it. The Secretary may change the deposites; but, when changed, Congress is to decide on the causes of such change, with authority either to sanction the removal, or to restore the deposites, according to its own judgment of right and expediency.

In order to decide whether the act of the Secretary ought to be confirmed, it is requisite, in the first place, to form a just opinion of the true extent of his power under the law; and, in the second place, to consider the validity of the reasons which he has specially assigned for the exercise of that power in the present case.

The opinion of the Secretary is, that his power over the deposites, so far as respects the rights of the bank, is not limited to any particular contingencies, but is absolute and unconditional. If it be absolute and unconditional, so far as respects the rights of the bank, it must be absolute and unconditional in all other respects; because it is obvious, if there be any limitation, that limitation is imposed as much for the benefit of the bank as for the security of the country. The bank has contracted for the keeping of the public moneys, and paid for it as for a privilege or benefit. It has agreed, at the same time, that the Secretary shall possess the power of removal; but then it is also agreed, that whenever this power is exercised, the reasons therefor shall be reported to Congress; Congress being thus constituted the final judge as well of the rights of the bank, in this particular, as of the good of the country. So that, if the Secretary's power be in truth absolute and unconditional, it restrains Congress from judging whether the public good is injured by the removal, just as much as it restrains it from judging whether the rights of the bank are injured by the removal; because the limitation, if any, is equally for the security of the bank and of the public.

If the bank be interested in retaining the deposites, then it is interested in the truth or falsity, in the sufficiency or insufficiency, of the reasons given for their removal. Especially is it so interested, since these reasons are to be rendered to a tribunal which is to judge over the Secretary, and may form a different opinion on the validity of these reasons, and may reverse his decision. It clearly has an interest in retaining the deposites, and therefore is as clearly concerned in the reasons which the Secretary may give for their removal. And as he is bound to give reasons, this very circumstance shows that his authority is not absolute and unconditional; because, how can an appeal be given from the decision of an absolute power? and how can such a power be called on to give reasons for any instance of its exercise? If it be absolute, its only reason is a reference to its own will.

The committee think, therefore, that no absolute and unconditional power was conferred on the Secretary; that no authority was given him by which he could deprive the bank of the custody of the public moneys, without reason; and that, therefore, his opinion is not to be admitted; that, in no event, can any order for removing the deposites impair the right secured to the bank by the charter. If removed without good cause, the committee think the removal does impair the rights of the bank.

But the opinion of the Secretary, as to his own powers, is hardly more limited in respect to the Government and the country, than in regard to the rights of the bank.

His opinion is, that it is his duty, and within his au-

thority, in this view also to withdraw the deposites of the public money from the bank whenever such a change would, in any degree, promote the public interest. "The safety of the deposites," he says, "the ability of the bank to meet its engagements, its fidelity in the performance of its obligations, are only a part of the considerations by which his judgment must be guided. The general interest and convenience of the people must regulate his conduct."

By the general interest and convenience of the people, the Secretary can only mean his own sense of that interest and convenience, because they are no otherwise to be ascertained than by his own judgment.

The Secretary's construction of the law is, therefore, that he has power to remove the deposites whenever, for any reason, he thinks the public good requires it.

In this interpretation of the design and object of the law, and this broad construction of the Secretary's power, the committee do not concur.

Although the power of the Secretary is not restricted by any express words or terms, nor by any particular occasions for its exercise specifically and expressly designated or prescribed by the law, yet it is not to be admitted, as the committee think, that this power is to be exercised capriciously, or in an arbitrary manner, or for loose or conjectural reasons, or on any idea of an unlimited discretion vested in the Secretary to judge on the general question of the public welfare; or, indeed, on any other grounds than those of necessity, or plain and manifest expediency, directly connected with the subject over which the power exists.

The keeping of the public money is not a matter which is left, or was intended to be left, at the will of the Secretary, or any other officer of the Government. This public money has a place fixed by law, and settled by contract; and this place is the Bank of the United States. In this place it is to remain until some event occur requiring its removal. To remove it, therefore, from this place, without the occurrence of just cause, is to thwart the end and design of the law, defeat the will of Congress, and violate the contract into which the Government has solemnly entered.

It is fit to be observed, that no other law confers on the Secretary such a wide discretion over the public interests in regard to any subject, or gives him a power to act on the rights of others, or on the rights of the public, in any part of his official duties, with so unlimited an authority as is here asserted. Every where else he appears in the character of a limited and restricted agent. He is the financial officer of the Government; he is the head of the Department of the Treasury. His duty is, to report annually to Congress the state of the finances, and to communicate to either House, when requested, any information respecting the Treasury; and he is to superintend the collection of the revenue. But he has no authority over the circulating medium of the country, either metallic or paper; nor has he the control of the national currency. It is no part of his duty either to contract or expand the circulation of bank paper, nor in any other way to exercise a general superintendence over the money system of the country. These general interests of the Government and the people are not confided to his hands by any of the laws which created his office, and have prescribed his duties; and the committee are of opinion that the charter of the bank no more intended to give such a wide scope to the Secretary in regard to the deposites, than other laws intended to give him the same wide scope in respect to other duties of his office. No intimation of such intention is found either in the charter itself, or in any of the legislative debates which took place in both Houses when the bank was established, or in the discussions which have been had on the various occasions which have been more recently presented for calling forth the sentiment of Congress. In none of these sources is there to be found any proof that the Legislature has delegated, or intended to delegate, this extraordinary power of judging of the general interest of the people, to the Secretary of the Treasury. Such a power, did he possess it, would necessarily make him the general superintendent of all the proceedings of the bank; because it would enable him to compel the bank to conform all its operations to his pleasure, under penalty of suffering a removal of the public moneys. This would be little less than placing all the substantial power of managing the bank in his hands. But he is not by law its manager, nor one of its managers; nor has he any right, in any form, to interfere in its management. On the contrary, the very language of the charter rejects all idea of such general supervision over its concerns by him, or any other officer of Government. That language is, that "*for the management of the affairs of the corporation*, there shall be twenty-five directors annually chosen;" and, under the restrictions contained in the charter, these directors are intrusted with the whole general business of the bank, subject, of course, to all the provisions of the charter and the by-laws; subject, too, always to the inspection and examination of either House of Congress; subject always to regular inquiry and trial; and bound always to communicate to the head of the Treasury Department, on request, statements of its amount of stock, debts due, moneys deposited, notes in circulation, and specie on hand.

Under these restrictions, the establishment of its offices, and the appointment of its officers; the amount of its discounts, and every thing respecting those discounts; its purchases and sales of exchange, and all other concerns of the institution, are to be conducted and managed by the directors. There is nothing in the charter giving the slightest authority to the Secretary to decide, as between the bank on the one hand, and the Government or the people on the other, whether the general management of the directors is wise or unwise; or whether, in regard to matters not connected with the deposites, it has or has not violated the conditions of its charter. The statement which the bank is bound to make to the Secretary, he may lay before Congress; and he is, doubtless, bound by his official duty to communicate to Congress any other information in his possession, tending, in his judgment, to show that the bank has disregarded its charter, or failed to fulfil all or any of its duties; but here his authority, so far as it regards the general course and operation of the bank, ends. It is then for Congress to act, if it see occasion, and to adopt the regular remedies for any evils which it may suppose to exist. But it transcends the power of Congress itself to pronounce the charter violated, without hearing, without trial, without judgment; far less is any such power of pronouncing final judgment confided to the Secretary. His power simply is, that, in regard to the deposites of the public money, he is to judge, in the first instance, whether just cause has arisen for their removal.

The Secretary seems to suppose—indeed, the very basis of his argument assumes—that the law has confided to him a general guardianship over the public welfare, so far as that welfare is in any way connected with the bank, or liable to be affected by its proceedings; and that he holds the power of removing the deposites as the means or instrument by which he is to enforce his own opinions respecting that welfare. The committee do not adopt this opinion. They think that, if such had been the design of the law, its provisions would have been very different from those which it does actually contain.

If such general guardianship had been intended to be conferred on the Secretary, it is reasonable to believe that he would have been vested with powers more suitable to such a high trust. If he had been made, or intend-

ed to be made, general inspector or superintendent, other authority than merely that of removing the deposites would have been given him, for this plain reason, that the Government and the country have interests of much magnitude connected with the bank, besides the deposites of the public moneys in its vaults; and to which interests, if endangered, the removal of the deposites would bring no security.

The Government is proprietor of seven millions of the stock of the bank; and yet no authority is given to the Secretary to sell this stock under any circumstances whatever, or in any other way to interfere with it.

The bills and notes of the bank, too, are made receivable in all payments to the United States, until Congress shall otherwise order; and no power is given to the Secretary to prevent their being so received, either during the session of Congress or in its recess, however the credit of these bills and notes might become depreciated.

How is it possible to conceive that, if Congress intended to give to the Secretary a general right to judge of the operations and proceedings of the bank, (and a power, of course, to declare when it had violated its duty, and was no longer trustworthy,) it should yet leave him under an absolute obligation to receive its bills and notes in all payments to the Treasury, though they might have lost all credit; and place no means in his hands to execute his high authority of superintendent, except the mere power of removal?

Wherever it is clear that Congress has given the Secretary a power, it has given him the means of informing his judgment as to the propriety of exercising that power. He has power to remove the deposites; and ample means are afforded him by which he may learn, from time to time, whether those deposites are safe. For this purpose, it is expressly made the duty of the bank to furnish him, so often as he shall require, if not oftener than once a week, with statements of the amount of the capital stock of the corporation, of the debts due to it, of the moneys deposited in it, of its notes in circulation, and specie on hand; and he has a right to inspect the general accounts in the books of the bank relating to this statement. This statement enables him to judge of the solvency and stability of the bank, and of the safety of the public money deposited in it. Here, then, is a power, and all appropriate means given for the just and enlightened exercise of that power. Confined to the deposites, the power is accompanied with all rational auxiliaries and attendants.

But for the depreciation of the bills of the bank, should that happen, and for other cases of maladministration, Congress has provided just and appropriate remedies, to be applied by itself or others, in exclusion of the Secretary. For redress of these evils no power is given to him.

For the security of the public interest, the law reserves a right to either House of Congress to inquire, at all times, into the proceedings of the bank; and if, on such inquiry, it appears in any respect to have violated its charter, Congress may bring it to trial and judgment. Power is given to the President, also, to institute judicial proceedings, if he shall have reason to believe that any such violation has taken place. But no such power is given to the Secretary.

The proposition, then, cannot be maintained, that Congress has relied, for the security of the public interests, and the preservation of the general welfare, so far as it is connected with the bank, on a general discretion reposed in the Secretary, for two reasons: first, because it has not given him the appropriate powers of remedy in the most important instances; and, secondly, because it has, in those instances, either expressly reserved those powers to itself, or expressly conferred them on the President.

If the Secretary cannot prevent the notes of the bank from being received at the custom-houses and the land offices, even after they should be discredited; if he have no power to touch, in any way, the seven millions of stock belonging to the Government; if the power of examination into the proceedings of the bank be given, not to him, but to either House of Congress; if he have no power (but Congress and the President each has power) to direct a legal investigation into the conduct of the bank, how can it possibly be maintained that a general inspection and guardianship over the public welfare, so far as it is connected with the bank, is confided to him; and that his authority to remove the deposites was given, not to protect the deposites themselves, and secure their proper use, but to enable him to enforce upon the bank, under penalty of their removal, such a course of management as his sense of the public interest and of the convenience of the people may require? Such a construction would give the law a strange and an undeserved character. It would convert the power of removal, intended for remedy and redress, into a mere instrument of punishment; and it would authorize the infliction of that punishment without hearing or trial, in the very cases in which the law yet says that, if violation of duty be charged, the charge shall be heard and tried before judgment is pronounced; and the duty of preferring this charge, and of prosecuting it to judgment, is given, not to the Secretary, but to Congress and to the President.

The contingent power given to the Secretary to remove the deposites evidently shows that Congress contemplated the possibility of the happening of some sudden evil for which either no other remedy was provided, or none which could be applied with sufficient promptitude; and for which evil, removal would be a just and appropriate remedy. The remedy prescribed, then, teaches us the nature of the evils which were apprehended. We can readily understand that threatened danger to the funds was one, and probably the chief of those evils; because change into other hands is the ready and appropriate measure which would rationally suggest itself to all minds as the proper security against such danger; and change is the remedy actually prescribed. Neglect to transfer the deposites from one place to another, as the exigencies of Government might require, and thereby to furnish those facilities of exchange which the charter demands of the bank without commission and without charge, is another evil for which, should it happen, the remedy would naturally be the withdrawing of the funds, and the placing of them in their former custody, so that they could be transferred or exchanged by the Treasury itself.

But who can see any connexion or relation, such as ordinarily exists between an evil apprehended and a remedy proposed—between such an evil as a supposed over-discount, for instance, by the bank at one time, or an under-discount at another, and the abrupt removal of all the public deposites? Add if no one can see the connexion, how can it be supposed that, in giving the power of removal as a remedy, Congress had in view any such evil?

A question may arise between the Government and the bank respecting the right of the parties to the sum of one hundred and fifty thousand dollars, as in the case of the French bill.

It is a question on which different opinions may be entertained, and which is, in its nature, fit for judicial decision. Does any man imagine that such a case as this was in the eye of Congress when they granted the power of withdrawing the whole public treasure from the bank? Can it be for one moment maintained that Congress intended that, in such a case, the Secretary should compel the bank to adopt his own opinion, by the exercise of a power, the very exertion of which deranges the currency, interferes with the industry of the people, and, under some circumstances, would hazard the safety of the whole revenue?

The committee think it cannot admit of rational doubt

that, if Congress had intended to give to the Secretary any power whatever, not directly touching the deposites themselves, not only would it have specially pointed out the cases, but it would also, most assuredly, have provided a remedy more suitable for each case. The nature of the remedy, therefore, which is prescribed, clearly shows the evils intended to be provided against.

To admit that the Secretary's conduct is subject to no control but his own sense of the general interest and convenience of the people, is to acknowledge the existence, in his hands, of a discretion so broad and unlimited, that its consequences can be no less than to subject, not only all the operations of the bank and its offices, but its powers and capacities, perhaps its very existence, to his individual will. He is of opinion that the law creating it is, in many of its provisions, unconstitutional; he may not unnaturally, therefore, esteem it to be his duty to restrain and obstruct, to the utmost of his power, the operation of those provisions thus deemed by him to be unconstitutional. He is of opinion that the existence of such a powerful moneyed monopoly is dangerous to the liberties of the people. It would result from this, that if, in the discharge of his official duty, he is to follow no guide but his own sense of the interest of the people, he might feel bound to counteract the operations of this dangerous monopoly, diminish its circulation, curtail its means, and prejudice its credit. To accomplish these very purposes, and these alone, he might withdraw the deposites. The power given him by Congress would thus be used to defeat the will of Congress in one of its most important acts, by discrediting, and otherwise injuriously affecting an institution which Congress has seen fit to establish, and which it has declared shall continue, with all its powers, to the expiration of its charter.

The power conferred on the Secretary is a trust-power, and, like other trust-powers, in the absence of express terms setting forth the occasions for its exercise, it is to be construed according to the subject and object of the trust. As in other cases of the deposite of moneys in banks, the primary object sought to be accomplished by Congress, by that provision of the charter now under consideration, is the safe-keeping of the money. The Secretary's trust, therefore, primarily and principally respects this safe-keeping. But another object is distinctly disclosed in the charter, which object is intimately connected with the fund, and that is its transfer and exchange from place to place, as the convenience of Government might require. The Secretary's trust, therefore, respects also this other object thus connected with the fund; and when either of these objects requires a removal, a removal becomes a just exercise of his authority. To this extent, none can doubt the existence of his power. If, in truth, the money is believed to be unsafe; if, in truth, the bank will not grant the facilities which it has promised, in consideration of receiving and holding the fund, then, certainly, it ought to be removed. But here the power must stop, or else it is altogether unbounded. Here is a just and reasonable limit, consistent with the character of the power, consistent with the general duties of the Secretary, and consistent with the nature of the remedy provided.

The charter of the bank is the law—it is the expressed will of the Legislature. That will is, that the bank shall exist, with all its powers, to the end of its term. That will, too, as the committee think, is that the public deposites shall continue in the bank so long as they are safe, and so long as the bank fulfils all its duty in regard to them. The Secretary assumes a broader ground. He claims a right to judge of the proceedings of the bank on all subjects. Admitting the fund to be safe, and admitting that the bank has performed all its duties in regard to it, he claims an authority, nevertheless, to remove the deposites whenever he shall form an opinion, founded on the conduct of the bank in any particular whatever, and however unconnected with the public moneys, that the general interest of the people requires such removal. If, in his opinion, it discounts too little, or discounts too much; if it expands or contracts its circulation too fast or too slow; if its committees are not properly organized; if it claims damages on protested bills, which it ought not to claim; if, in his opinion still, it is guilty of a wrongful meddling in politics, or if it do any thing else not consistent with his sense of the public interest, he has a right to visit it with a withdrawal of the public money from its custody.

If this claim of power be admitted, it would seem to the committee to be a fair result that the Secretary has power to withdraw the deposites for no other reason than that he differs with Congress upon its constitutional authority to create any bank, or upon the constitutionality of this particular bank, or upon the utility of continuing it in the exercise of its chartered powers and privileges till its term shall expire.

The committee, therefore, are of opinion that it was not the intention of the Legislature to give to the Secretary of the Treasury a general guardianship over the public interests in all matters connected with the bank; but that his power is a limited one, and is confined to the safety and the proper management of that portion of the public interest to which it expressly relates; that is to say, to the public moneys in deposite in the bank.

But the extent of the Secretary's discretion, as asserted by himself, reaches even farther than the wide range which the committee have here described. It is not confined to the protection of all the various interests which the Government and the country have in the bank, or to a supervision and control over all the conduct of the bank, but it embraces all branches of the public interest, and touches every thing which in any way respects the good of the people. He supposes himself rightfully to possess the power of removing the deposites, whenever any causes, springing up in any part of the whole wide field of the general interest, may appear to him to call for such removal. Notwithstanding he may suppose all the great interests confided to the bank to be perfectly safe—notwithstanding he may have no occasion to complain of any part of its conduct—notwithstanding even it may so have demeaned itself as to have become the object of his favor and regard—yet, if his construction be admitted, he may remove the deposites simply because he may be of opinion that he might place them, with a prospect of still greater advantage, in other hands. If he be of opinion that the commerce of the country, or its manufactures, would be benefited by withdrawing the public money from one bank and placing it in many, that would be an exercise of authority entirely within the limits which he prescribes to himself. It would be a case in which he would only follow his own sense of what the general interest and convenience of the people required. He might think, too, that by withdrawing all the public treasure from the Bank of the United States, and placing it in the hands of twenty or thirty State banks, to remain there during his pleasure, and to be drawn thence, again, at his will, he might be enabled effectually to advance certain other objects, which, whatever others might think of them, he might consider to be essential to the good of the people. All this, if he be right, is within his just authority. A power necessarily running to this extent, is a power, in the opinion of the committee, which can never be admitted.

Having thus expressed an opinion upon the general extent of the power claimed by the Secretary, the committee proceed to consider the reasons which he has reported to Congress as the particular grounds on which the power has been exercised in the present case.

The first reason assigned by the Secretary is the near approach of the period when the bank charter will expire.

That period is the 4th of March, 1836, more than two years distant; nearly two years and a half at the time of the removal. Three sessions of Congress are, in the mean time, to be holden; and inasmuch as the Secretary himself says that "the power over the place of the deposites for the public money would seem properly to belong to the Legislative department of Government," the committee think it might reasonably have been expected by him that Congress would not fail to make, in season, suitable regulations on a subject thus admitted to be within the just exercise of its authority, and properly one of its duties.

Why, then, should he not have waited till Congress had seen fit to act upon the subject, or had manifested a disposition not to act? The matter of the deposites had been before Congress last session, and Congress had then thought no provision to be, as yet, necessary. Its undoubted sense was, that the public moneys should remain where they were. This was manifested by proofs too clear to be questioned. Another session was fast approaching; and why was not the whole subject left where Congress had chosen to leave it at the end of its last session, to await the free exercise of its legislative power at this session? It might have been fit for the Executive to call the attention of Congress, at this time, to the necessity of some legal provisions respecting the future custody of the public moneys; and it would, doubtless, have been proper for Congress, without such call, to take up and consider the subject at its own suggestion; but the committee see no reason whatever, in the approaching expiration of the charter, for a change so sudden, and producing such important effects, made so long before that expiration, at a time when Congress had recently had the subject before it, and when, too, it was again about to assemble, and would naturally have reasonable and full opportunity to adopt any necessary legislative provisions.

The Secretary has stated no reason satisfactory to the committee for not deferring this important step until the meeting of Congress. He sets forth no emergency, no sudden occasion, nothing which, in their judgment, made immediate action by him necessary.

The Secretary supposes it to have been his duty to act on the belief that the bank charter would not be renewed; and he refers to recent popular elections in support of this opinion. The committee believe it altogether unusual for reasons of that kind to be assigned for public and official acts. On such subjects, opinions may be very various. Different and opposite conclusions may be drawn from the same facts by different persons. One man may think that a candidate has been elected on account of his opposition to the bank; another may see only that he has been chosen, notwithstanding such opposition. One may regard the opposition, or the support, of any measure, by a particular candidate, as having been, itself, a promoting cause of the success of his election; another may esteem it as a formidable objection, overcome, however, by more powerful reasons; and others, again, may be of opinion that it produced little or no effect on the one side or the other. But if inferences, less uncertain, could be drawn from such occurrences, the committee still think, that for a public officer to presume what law the Legislature will or will not pass, respecting matters of finance, from the election of a particular person to be Chief Magistrate, implies a consequence from such election which the constitutional independence and dignity of the Legislature do not allow to be admitted.

But if for this, or other reasons, the Secretary had persuaded himself that the charter of the bank would not be renewed, still, it certainly did not follow that the deposites ought to be removed before Congress had decided on the hands into which they should be transferred, and had made suitable regulation respecting their future custody. If there were good ground for thinking that Congress would not recharter the bank, for that very reason there was equally good ground for supposing that it would make proper and seasonable provision for the keeping of the public moneys elsewhere. How could the Secretary doubt that Congress would omit to do that which he avers to be one of its appropriate duties? The question is, not what measures Congress might be expected to adopt—whether the rechartering of the bank, or what other measures; but whether it ought not to have been presumed that it would adopt some measure, and that a seasonable and proper one, according to its power and its duties? and whether, therefore, this anticipation of the action of Congress, on the eve of its session, is to be justified?

The bank charter declares that the deposites of the public money shall be made in the bank and its offices, and that the bank shall continue till March, 1836. Where does the Secretary find his power to decide that the deposites shall be so made but for seventeen years from the date of the charter, instead of twenty? If he may thus withdraw the deposites two or three years before the expiration of the charter, what should restrain him from exercising the same authority five years before its expiration, or ten years? A plain and cogent necessity, the existence of a case which admits of no reasonable doubt, and which is too urgent for delay till Congress can provide for it, can alone justify an interference with the public moneys, lodged in the bank by law, for the double purpose of safe-keeping, and fulfilment of solemn contract.

But supposing it not reasonable for the Secretary to have expected the interposition of Congress, and admitting that he might consider the withdrawing of the deposites as an act which was to be done, at some time, by himself, how can it, nevertheless, be argued, that so early and so sudden a withdrawal was necessary? The committee can perceive no possible reason for this, in any state of facts made known to them.

The withdrawal of the money left on deposite, from a bank whose charter is about to expire, is naturally one of the things longest postponed. It is as safe the last day of the existence of the bank, in common cases, as at any previous period. The bank expects the recall of its deposites, near the period of its expiration, and prepares itself accordingly. The operation, if made gradually, produces, when thus conducted, the least possible disturbance in the business of the community. Former experience would seem to have held out a salutary light for the guidance of the Secretary in this part of his official duty.

At the time of the expiration of the charter of the former bank, Mr. Gallatin was Secretary of the Treasury, and the public deposites were in the bank. The charter of the bank was to end on the 4th of March, 1811, and it does not appear that Mr. Gallatin thought it necessary to make any provision whatever for removing any part of the deposites, except by drawing on them for the common uses of Government, until late in the very month preceding the expiration of the charter. A large amount of those deposites remained, indeed, in the vaults of the bank after the charter had expired, and until they were wanted in the general operations of the Treasury. And why should it be otherwise? Why should that be done suddenly now, which the Secretary thinks could not be done suddenly hereafter without great inconvenience? Is it not the just inference, from his own argument, that the thing should not have been done suddenly at all? As to the idea that the credit of the paper of the bank will be depreciated near the time of the expiration of its charter, or that it would be inconvenient for it, at that time, to be called on for the deposites, the committee are utterly at a loss to see the slightest foundation for such an opinion. Experience is against it; and all reason, as the committee think, is against it also. There is nothing to render it in any degree doubtful that the bills of the bank will be in as good credit the last day of its charter, and even after that time, if any shall be outstanding, as they are now; and

there is as little to render it doubtful that then, as now, the bank would be competent to answer all demands upon it. In the opinion of the committee, the withdrawal of the fund was both unnecessarily early, and unnecessarily sudden. It might have been made gradual; it might have been deferred; and it might have been, and ought to have been, as the committee think, not ventured upon at all, until the attention of Congress itself had been called to the subject. The committee, therefore, entirely dissent from this first reason reported by the Secretary. They see nothing which proves to them the existence of the slightest occasion for taking this important step at the moment it was taken. So far as it depends on this reason, the committee think the removal was made without necessity, without caution or preparation, with a suddenness naturally producing mischievous consequences, and in unjustifiable anticipation of the legislation of Congress.

But the Secretary thinks there are other reasons for the removal, growing out of the manner in which the affairs of the bank have been managed, and its money applied, which would have made it his duty to withdraw the deposites at any period of the charter.

Of these reasons, thus arising from the alleged misconduct of the bank, the first is, that many important money transactions of the bank are placed under the control of a committee of exchange, of which committee no one of the public directors, as they are called, is allowed to be a member, instead of being transacted by a board of seven directors.

This charge consists of two parts: first, that the discounts of bills are made by a committee, and not by a quorum of the board; second, that the public directors are not allowed to be of this committee.

First. It is not alleged that, in the discounts of bills by this committee, any indiscretion has been committed, or any loss incurred; or that, in consequence thereof, any facility to the mercantile community has been withheld, or any duty of the bank to the Government violated. The objection is, simply, that bills are discounted by a committee. Supposing this to be an irregularity, or illegality, in the proceedings of the board, how is it to be corrected by withdrawing the deposites? What connexion is there between the two things? It is not pretended that this mode of discounting bills endangered the deposites; it is not pretended that it made the bank either less able or less willing to perform every one of its duties to Government. How should the withdrawal of the deposites, then, be suggested by the discovery of such an irregularity, real or supposed? The committee are not able to perceive the least propriety in applying the power of removal to a proceeding of this kind, even if it were admitted to be irregular or illegal. But is the practice illegal? It is believed to be not at all unusual. It is believed to be quite common, in banks of large business, for bills of exchange, which are presented every day, and almost every hour in the day, to be discounted either by a committee of the directors, or by the president or even other officers, acting under such general orders and instructions as the directors, at their stated meetings, prescribe. A large board of directors cannot assemble every day—perhaps not oftener than twice a week. If bills of exchange could only be discounted at these periodical meetings, the business of exchange could not go on with the promptitude and despatch so important to commercial men in such transactions.

The committee suppose the truth of these remarks will be at once admitted by all who have knowledge of business of this kind.

The general management and control, the authority of examining and supervising, of contracting or enlarging the amount of daily discounts, according to the state of the bank, and of giving every other order and direction on the subject, still remains with the directors, and is constantly exercised by them. They still manage the affairs of the bank, in the language of the charter, although they may depute to a committee the authority of inquiring and deciding upon the credit of persons whose names are on bills of exchange offered for discount, and on the rate of exchange current at the day. The legal question would be, whether the directors, by rule or by law, may not authorize a small number of their own board to discount bills? The bank has been advised that it might rightfully do this; and if it be not clear that this opinion is right, it is certainly far from clear that it is wrong; and in this state of the question, the general practice of other banks, under similar provisions in their charters, may well relieve the directors from the imputation of intentional mismanagement.

If, in all this, the bank has violated its charter, what other banks of extensive business have not done the same thing?

But the other subject of complaint, and that which seems to be regarded as the more offensive part of this regulation, is, that the public directors, as they are called, were not allowed to be on this committee.

It may be observed, in the first place, that if the discounting of bills of exchange by a committee, instead of the whole board of directors, be illegal, it would hardly be rendered legal by placing any or all of these public directors on the committee as members. But the Secretary seems to suppose that there was some particular object in this exclusion of these directors, as if there had been something wrong to be done, and therefore secrets to be kept, by this committee. It is not easy to see what foundation there can be for this opinion. All those discounts are matter of record. They appear every day in the books of the bank. Every director, on or off the committee, sees them, or may see them, at pleasure. There is no secrecy, nor any motive for secrecy, so far as this committee can perceive. Very proper causes may have existed, for aught that can be known by the Senate, for the omission of these particular directors from this particular committee. Their services might have been deemed more useful in other committees; or however respectable in general character, or however useful in other parts of the direction, they may have been esteemed not so well acquainted as others with the business of foreign or domestic exchange. And even if there were, or are other causes for the omission, such as tend less to prove the existence of that harmony and mutual respect which it is so desirable should prevail in such a board, these causes cannot furnish any just ground for asserting, either that the business of exchange was illegally conducted, or that the constitution of the committee was proof of the existence of any motive not fit to be avowed.

But the Secretary entertains an opinion respecting the character and duties of the directors appointed by the President and Senate, in which the committee do not concur. He denominates them "public directors," "officers of the Government," &c.

By the charter of the bank there are to be twenty-five directors. Of these, twenty are to be chosen by the individual stockholders, and five appointed by the President, with the advice and consent of the Senate. As the Government owned one-fifth of the stock of the bank, it was judged expedient to place in the hands of the President and Senate the appointment of one-fifth of all the directors. But they are not called public directors, nor officers of the Government, nor public agents; nor are they entitled, so far as the committee can perceive, to either of these appellations, any more than the other directors. The whole twenty-five directors are joint managers of a joint fund, each possessing precisely the same powers, and charged with the same duties as every other. They derive their appointments, it is true, from different origins, but, when appointed, their authority is the same.

There is not one word in the charter intimating, in the remotest manner, that the five directors appointed by the President and Senate have any particular duty, or are the objects of any peculiar trust. The charter calls them not Government directors, not public directors, but simply the directors appointed by the President and Senate. They are placed in the direction to consult with the other directors for the common good of the bank, and to act with these others, and vote with them on all questions. They are, what the law calls them, directors of the bank, not agents of the Government. They are joint trustees with others in a joint interest. If any thing illegal or improper takes place in the board, they are bound to resist it by the duty which they owe the individual stockholders, as much as by the duty they owe the Government; because they are agents of the individual stockholders, and have the same authority to bind them by their acts, as to bind the Government; and, in like manner, it is the duty of those directors who are appointed by the individual stockholders, to give notice, as well to Government as to the stockholders, if any thing illegal take place or be threatened. All those directors act and vote together, on the smallest as well as on the highest occasions; and, by their joint votes, bind the corporation, and bind both the Government and individual stockholders to the extent of their respective interests in the corporation.

If the directors appointed by the President and Senate had been excluded by the charter from any part of the power exercised by the others; if it had been forbidden them to interfere, to the same extent, and with the same effect as the rest in the common business of the bank, there might be some reason for supposing that an uncommon character—a character not so much of action as of supervision and inspection, was intended to be conferred on them. But they do interfere, and justly, in all transactions of the bank. They do vote and act on all subjects like the other directors. Being, then, possessed of this common character of directors, and enjoying all its powers to the fullest extent, the committee know no form of argument by which an uncommon and extraordinary character is to be raised by construction, and superadded to the common character of directors which thus already belongs to them.

By granting the charter, and by accepting it, the Government on the one hand, and the individual stockholders on the other, have agreed that, of the directors, as joint agents of all parties, the stockholders shall appoint twenty, and the Government five. The interest of all parties is confided to this joint agency: and any distinction in their powers, as arising from their different modes of appointment, is, in the judgment of the committee, not to be sustained. They regard such distinction as entirely inconsistent with the nature of the agency created, and as deriving not the least countenance from any thing contained in the law.

The committee, nevertheless, to avoid misapprehension, wish to repeat, that it is undoubtedly the duty of the directors appointed by the President, and of all other directors, to give notice, both to Government and the stockholders, of any violation of the charter committed or threatened.

The Secretary of the Treasury has thought proper to observe that the measures of the committee of exchange are, as it appears, designedly, and by system, so arranged as to conceal from the officers of the Government transactions in which the public are deeply involved. This, it must be admitted, is a very serious charge. It imputes a corrupt motive. The committee have sought for the foundation, either in evidence or argument, on which this charge rests. They have found neither. They find only the charge, in the first place; and then they find the charge immediately stated as a fact, and relied on as the basis of other charges.

The second reason specially reported by the Secretary as arising from the conduct of the bank, respects the bill of exchange drawn by the Secretary of the Treasury on the Government of France, and purchased by the bank.

The general facts connected with this case are these:

By the late treaty of indemnity between the United States and France, it was stipulated that the French Government should pay to that of the United States twenty-five millions of francs, to be distributed among those American citizens who had claims against France for the unlawful seizure, capture, and condemnation of their vessels and property; the whole sum to be paid in annual instalments of four millions one hundred and sixty-six thousand six hundred and sixty-six francs each, into the hands of such persons as shall be authorized by the Government of the United States to receive it; the first instalment to be paid at the expiration of one year next following the exchange of the ratification.

On the expiration of the year, the Secretary drew a bill of exchange, signed by himself as Secretary, on the French Government, for the amount of this instalment, and sold it to the bank, like any other bill of exchange, and received the proceeds by credit of the amount to the account of the Treasurer in the bank.

On the presentment of this bill at the French Treasury, payment was refused; the bill was accordingly duly protested, and it was taken up by a third person for account of the bank. The damages accruing on this bill, according to law and constant usage in such cases, are one hundred and fifty-eight thousand dollars.

If this bill had been transferred by the bank, as probably it was, the bank itself would have been answerable for damages, even at a higher rate, if a third person had not taken up the bill for the honor of the bank.

On receiving information of the protest of the bill, the officers of the bank, as was their duty, gave immediate notice to the Treasury Department, and accompanied that notice with the information, always given in such cases, that the drawers of the bill would be held answerable for the damages. Such is the substance of the facts in this case.

The bank, it would appear, was willing to collect the bill on account of Government, and to credit the Treasury with the proceeds when received; a course of proceeding which had this to recommend it, that the money to be received on the bill was to be received by the Government simply in trust for claimants under the French treaty, and was not ultimately destined to the ordinary uses of the Treasury. On the contrary, indeed, before the dishonor of the bill was known, it had been made, already, the legal duty of the Secretary to place the fund, so soon as received, at interest, for the benefit of the claimants.

But it was thought best to sell the bill, and to realize at once its amount into the Treasury; and the bill was sold to the bank, in preference to others offering to purchase, for no reason, it is to be presumed, except that the terms of the bank were more satisfactory. The bill was thus purchased by the bank, and its proceeds credited to the Treasury. This was a mere transaction of the purchase and sale of a bill of exchange. There was no trust confided to the bank, and no fiscal agency in the whole matter. Indeed, the agency of the bank had been declined, the Secretary preferring to deal with it, not as an agent, but as a purchaser, proposing to it not to collect the bill, but to buy it. On being remitted to Europe, and presented for payment, the bill was protested. By the universal commercial law, the Government, on the occurrence of this protest, became amenable to the bank for the amount of the bill, with damages. These damages may be ultimately claimed, with justice, from the French Government, if the bill was drawn upon sufficient grounds, and on proper authority; in other words, if the

obligation of the French Government was such, that it was bound to accept and pay the bill; but unless there be something in the case to vary the general rule, which the committee do not perceive, these damages were part of the debt which had become due to the bank, as much as the principal sum of the bill. If this be so, how could the directors relinquish this part of the debt, any more than the other? They are agents for the corporation; they act as trustees, and have no authority, without consideration, to release either to the Government or to individuals, debts due, or properly belonging to the corporation.

It has been suggested, that the bank should have taken up this bill, when protested, on Government account. Two answers may be given to this suggestion: the first is, that the bill had been taken up by a correspondent abroad for account of the bank, before it was known in the United States that it had been protested. The second is, that it would have been unlawful for the bank to have advanced such amount to the Government, or on account Government, for the purpose of taking up this bill, or for any other purpose, without an act of Congress. The express words of the charter forbid it.

But, as a reason for removing the deposites, it appears to the committee quite immaterial whether the bank be wright or wrong in claiming these damages. If wrong, it will not recover them. It is not the judge of its own rights; and if the appropriate tribunals shall decide that the bank was acting on this occasion, or ought to have acted, as the agent of Government, or that it was its duty to take up the bill on account of Government, then the damages will not be awarded to it. And in the worst aspect of this case, how can its conduct, in this respect, be any possible reason to justify the removal of the deposites? What connexion has this occurrence with the safe-keeping of the public treasures, or with the remitting them from place to place, to meet the convenience of Government, according to the duty of the bank under the charter? The bank thinks itself entitled to damages on a protested bill purchased and held by itself, and drawn by Government. The Secretary of the Treasury thinks otherwise. If there be no reason to doubt the sincerity of the Secretary's conviction, there is as little to doubt the sincerity of that entertained by the bank; and it is quite inconceivable to the committee that the pendency of such a difference of opinion, on such a question, should furnish any reason whatever for withdrawing the deposites, unless it be at once admitted that the Secretary holds the power of removal as a perfectly arbitrary power, and may exercise it, by way of punishment, whenever, in any particular, the conduct or the opinions of the bank do not conform to his pleasure.

The Secretary does not argue this matter. He offers no reason in opposition to the legal right of the bank to the damages claimed. Indeed, he hardly denies the right. He commences his observations on the subject by saying that the ruling principle of the bank is its own interest; and closes them with another declaration, that, as fiscal agent to the public, it availed itself of the disappointment of its principal for the purpose of enlarging its own profits.

Assertions like these, however else they may be disposed of, cannot be made subjects of argument.

The last charge preferred against the bank is, that it has used its means with a view to obtain political power, and thereby secure the renewal of its charter.

The very statement of such a charge, as a reason for removing the deposites, is calculated to excite distrust in the wisdom and propriety of that measure; because the charge, too general to be proved, is too general, also, to be disproved; and since it must always rest mainly on mere opinion, it might be made at any time, by any Secretary, against any bank. It would be, therefore, always a convenient cloak under which to disguise the true motives of official conduct.

If proof be made out that the funds of the bank have been applied to illegal objects, the proper mode of redress and punishment should have been adopted; but what has this to do with the deposites? As in the case of the French bill, the Secretary cannot justify the removal of the deposites on any such ground as this, unless it be conceded that he may use the power of removal as a punishment for any offence, of any kind, which the bank, in his opinion, may have committed. The committee have already expressed the opinion that no such latitude of power belongs to him; and the assertion of such a power, for such a cause as is now under consideration, shows that the power ought never to belong to any Secretary; because the offence on account of which it is here proposed to be exercised is a political offence, incapable of definition, depending merely on the Secretary's opinion, and necessarily drawing into its consideration all the exciting controverted topics of the day. The bank, it is said, "has sought to obtain political power." What is the definition of such an offence as this? What acts constitute it? How is it to be tried? Who is to be the judge? What punishment shall follow conviction? All must see that charges of this nature are but loose and vague accusations, which may be made at any time, and can never be either proved or disproved; and to admit them as sufficient grounds to justify the removal of the deposites, would be to concede to the Secretary the possession of a power purely arbitrary.

The main fact relied on for this cause of removal shows how extremely unsafe all proceedings on any such reasons must be. The main fact is, that, between December, 1830, and December, 1831, the bank extended its loans twenty millions of dollars; and it is further alleged that, as if to leave no doubt of the motive of this extraordinary conduct, it continued to add rapidly to its loans, until in May, 1832, while its petition for renewal was pending, those loans amounted to seventy millions. And the Secretary declares that this extraordinary increase of loans, made in so short a space of time, and on the eve of a contested election, in which the bank took an open and direct interest, demonstrates that it was using its money to obtain a hold upon the people of the country, to induce them, by the apprehension of ruin, to vote against the candidate whom it desired to defeat. This is strong assertion; but, so far as the committee perceive, it is assertion merely. It is but the Secretary's own inference from facts, from which very facts his predecessors in office have drawn no such conclusions.

This great extension of the loans, be it remembered, took place in 1831. Why was it not then complained of? How should it have escaped the vigilance of the Secretary of that day, at the time it took place? And, if it did not escape his vigilance, why did he not remove the deposites? So, also, as to the amount of loans in May, 1832. That amount was perfectly well known at the time; and if it proved any offence, why was not the punishment inflicted then? How should all other Secretary's have slept over this great mischief?

It might further be well asked, what evidence is there of the existence of any such motive as is imputed to the bank, in this extension of its loans? There is no evidence, but the mere fact itself of the extension; and it cannot be denied, that other and very different reasons for the extension may have existed; so that the charge is proved no otherwise than by inferring a bad motive, from an act lawful in itself, and for which good reasons may have existed.

Nor is it either acknowledged, nor, so far as the committee know, proved, that the bank took an open and direct interest, as a corporation, in the election referred to. The bank certainly was much interested in certain accu-

sations which had been brought against it, and which became subjects of public discussion during the pendency of that election. It had been charged with great misconduct, and gross violation of its charter. These accusations must undoubtedly have called on the directors for answer. If made before Congress, they were to answer before Congress; if made judicially, they were to answer in the courts; if made in an official and formal manner, and in that manner submitted to the judgment of the country, the directors were bound to meet them before that country, by every fair use of fact and argument, not only for the purpose of defending themselves as directors, but for the higher purpose of maintaining the credit of the bank, and protecting the property intrusted to their care. If, in thus defending the bank before the community, the directors carried their measures beyond this fair object of defence, or if they resorted to dishonorable or indecorous modes of discussion; if they sought rather to inflame than to reason; if they substituted personal crimination for argument; if even they met invective and violence with corresponding invective and violence, they followed bad examples, and are not to be justified. But on their right to defend themselves before the public against grave charges brought against them, and urged before the public, the committee entertain no doubt; and they are equally clear in opinion, that the Secretary of the Treasury is not constituted the judge of the mode of exercising this right, and cannot justly remove the deposites merely because the conduct of the bank, in this particular, has not happened to conform to his wishes.

The committee, therefore, consider this last reason of the Secretary equally insufficient with the rest; and they regard it as the most objectionable of all, in its principle, inasmuch as it proceeds on grounds which, if admitted, would leave a very high official duty to be exercised from considerations connected with the political feelings and party contests of every day, with no guide but the individual opinion of the officer who is to perform the act; an opinion which, it is possible, may itself be no less tinctured with political motive and feeling than the conduct which it would reprehend.

If an unlimited power be conceded to the Secretary to inflict penalties on the bank for supposed political motives, in acts legal in themselves, where is the security that the judge may not be found acting under the same impulses which he imputes to the party accused?

The committee entertain no doubt that the immediate cause of the existing public distress is to be found in the removal of the public deposites, and in the manner in which that removal has been made. No other adequate cause has been suggested; and those who justify the removal do not so much deny this to have been the cause, as insist that it was not necessary that any such effect should have followed from it. In other words, they argue that, notwithstanding the removal, the bank still possessed the power, if it had chosen to exercise it, of warding off the blow which has fallen on the country, or at least of mitigating its severity.

Nothing could have been rationally expected but that the bank, deprived of the deposites, and denounced by the Executive Government, would feel itself called on to take just care of its own interest and its own credit. Of the means necessary to the attainment of these ends, the directors alone were judges, and the committee have no evidence before them to show that they have not exercised their judgment fairly, and with a real solicitude to accommodate the commercial community, in the altered state of things, as far as has been practicable, consistently with the security of the institution which it is equally their duty to the public and the stockholders to maintain. They are certainly under every obligation of duty, in the present distressed state of the country, to do every thing for the public relief which is consistent with the safety of the bank, and with those considerations which the approaching expiration of its charter makes it important for the directors to regard.

The removal itself, and the manner of effecting it, are causes entirely sufficient, in the judgment of the committee, to produce all the consequences which the country has experienced, and is experiencing; and these consequences, they think, are to be referred to those causes as their just origin. How could any other result have been expected? The amount of the deposites was nine millions of dollars. On this amount in deposite there was sustained, no doubt, a discount of far greater magnitude. The withdrawal of this sum of nine millions from the bank necessarily compelled it to diminish its discounts to the full extent of all that part which may be supposed to have been sustained by it. It is to be remembered, too, that this was done at a moment when business of every kind was pressed with great activity, and all the means of the country fully employed.

The withdrawal of so large an amount at such a time, from hands actually holding and using it, could not but produce derangement and pressure, even if it had been immediately placed in other banks, and if no unfriendly feeling and no want of confidence had attended the transaction. But it is quite obvious that the operation to which the Secretary has resorted has been attended with both these additional and powerful causes of derangement. It has created unfriendly feelings, and it has diminished confidence. This change of the deposites is made on the strength of charges against the bank, of a very grave and aggravated nature; such as, if true, would most seriously affect its credit for solvency and stability. It is proclaimed to the whole world as having converted itself into a political partisan, misapplied its funds, neglected its highest duties, and entered on a career of electioneering against the Government of the country.

These serious charges necessarily put the bank on its defence; and the extraordinary spectacle is exhibited of a warfare by the National Government on the National bank, notwithstanding that the Government is itself a great proprietor in the bank, and notwithstanding that the notes of the bank are the currency in which the revenues of the country are by law receivable.

The true and natural relation between the Government and the bank is altogether reversed. Instead of enjoying the confidence of the Government, it is obliged to sustain its most serious official assults, and to maintain itself against its denunciations. The banks selected by Government as its agents are themselves thrown, perhaps unwillingly, into an attitude of jealousy and suspicion with the Bank of the United States. They become cautious and fearful, therefore, in all their proceedings; and thus, those who should co-operate to relieve the public pressure, are considering mainly their own safety. Fearful of each other, and fearful of the Government, they see the distress continue, with no power of beneficial interposition.

It may be asked, why are not these deposite banks able to maintain as large a circulation on the nine millions of deposites as the Bank of the United States? And will they not be thus able when the present panic shall have subsided? The committee think both these questions easily answered?

The Bank of the United States has a credit more general, it may be said more universal, than any State bank does possess. The credit of the Bank of the United States is equally solid, its bills and notes received with equal confidence, for the purpose of circulation and remittance, in every quarter of the country. No paper circulation, so far as the committee know, which ever appeared in the world, has approached nearer to the value and uniformity of a specie currency than the notes and bills of the Bank

of the United States. To the State banks these notes and bills have performed the office of specie. All the State banks have discounted, upon the possession of them, with the same freedom and boldness as they would have done on an equal amount of the precious metals. The curtailment of their circulation, therefore, is not merely a withdrawing of the amount curtailed from the general mass of circulation; it is removing, rather, to the amount curtailed, the basis of the general circulation; and although the actual amount of notes and bills has not been recently greatly diminished, there is reason to suppose that the amount held by State banks has been greatly diminished.

The removal of the deposites has operated directly on the amount of the circulating medium, at a moment when that amount could not bear any considerable reduction—suddenly made, without producing sensible effect. It has diminished prices, and, in some instances, it has had this effect to a very material degree. It has operated on the internal exchange, and has, most manifestly, been attended with very serious and heavy inconveniences in that important branch of the national interest. More than all, it has acted on opinion; it has disturbed the general confidence, it has weakened the public faith in the soundness of the currency, and it has alarmed men for the security of property. As yet, we hardly know its effects on the credit of the country in Europe. Perhaps it is not easy to anticipate those effects; but if causes which operate here should be found to have been efficient there also, a still greater degree of pressure and distress than has yet been felt may be expected.

The committee, therefore, cannot but regard the removal of the deposites, on the whole, as a measure highly inexpedient, and altogether unjustifiable. The public moneys were safe in the bank. This is admitted. All the duties of the bank connected with these public moneys were faithfully discharged. This, too, is admitted. The subject had been recently before the House of Representatives, and that House had made its opinion against the removal known, by a very unequivocal vote. Another session of Congress was close at hand, when the whole matter would again come before it. Under these circumstances, to make the removal, with the certainty of creating so much alarm, and of producing so much positive evil and suffering, such derangement of the currency, such pressure and distress in all the branches of the business of private life, is an act which the committee think the Senate is called on to disapprove.

The reasons which have thus been stated apply to the whole proceedings of the Secretary relating to the public deposites, and make it unnecessary to consider whether there be any difference between his power over moneys already in the bank, and his power to suspend future deposites. The committee forbear, also, to consider the propriety of the measures adopted by the Secretary for the safe-keeping of the public moneys since their withdrawal from the bank. They forbear, too, from entering into any discussion, at present, of the course of legislation proper to be adopted by Congress under the existing state of things. In this report, they have confined their consideration to the removal of the deposites, the reasons assigned for it, and its immediate consequences; and on these points they have formed the opinions which have now been expressed.

They recommend to the Senate the adoption of the resolution which has been referred to them.

House of Representatives, *April* 22, 1834.

Mr. Polk, from the Committee of Ways and Means, made the following report:

The Committee of Ways and Means, in pursuance of the third resolution of their former report upon the subject of the Bank of the United States and the public deposites, which was adopted by the House, submit the following report:

The House, by its vote, having decided "that the State banks ought to be continued as the places of deposite of the public moneys, and that it is expedient for Congress to make further provision, by law, prescribing the mode of selection, the securities to be taken, and the manner and terms on which they are to be employed," the committee deemed it proper, in a measure of so much importance, to ascertain from the Secretary of the Treasury his opinion and views in regard to the regulations proper to be adopted in the employment of the State banks as the depositories of the public moneys, and the fiscal agents of the Government; and also for his views in regard to the probable effects which would be produced upon the currency by such regulations. They accordingly addressed a letter to the Secretary, requesting to be furnished with the information desired, and herewith report the answer which has been received.

In determining upon the mode in which the deposite banks shall be selected, the committee are of opinion that a due regard to the public interests will make it proper to leave the selection, in the first instance, to the head of the Treasury Department, or to some other person designated by law; but, when once selected, to put it out of the power of the Executive to discontinue such depository without the sanction and approbation of Congress. Should it, however, be deemed expedient for Congress themselves to designate, by law, the banks which shall hereafter be employed as depositories, instead of delegating the power of selection, in the first instance, to an executive officer, there could be no objection to that mode, provided it be deemed practicable to make the selections in such manner as to protect and preserve the public funds to be deposited therein.

The bill which they report prescribes, first, the mode in which, and by whom, the State banks hereafter to be employed as the public depositories shall be selected; secondly, the terms and conditions upon which they shall be employed, the duties and services they shall perform, and the securities which they may be required to give, in order effectually to protect the Government against possible danger of loss; and, thirdly, it provides that, when once selected, they shall be placed beyond the power and control of the Executive department, except so far as the safe and prudent management of the public revenue may render such control indispensable.

The bill restricts the discretion of the Executive, and places it out of the power of that department to discontinue the selected banks as places of public deposite; to cases of failure on the part of said banks to comply with the terms and conditions on which they may be employed; or to cases in which any of said banks may become unsafe depositories of the public moneys, and reserves to Congress the ultimate control over the whole subject. By its provisions the Secretary of the Treasury cannot, during the session of Congress, dismiss from the service of the Treasury, any bank of deposite, without having first obtained the sanction and approbation of Congress; and if, during the recess of Congress, any bank shall fail or refuse to comply with the terms and conditions upon which it has been employed; or if, from the periodical returns of its condition and business, or otherwise, the Secretary of the Treasury shall deem it to be necessary, in order to protect and preserve the public interest, to discontinue any of said banks as public depositories, he is authorized to issue such order, temporarily, but is required, at the commencement of the next session, to report to Congress the reasons and the evidence upon which he has ordered such discontinuance, reserving to Congress the right to approve or reverse such order. Thus all apprehension that the power of the Executive over the selected banks may be used as a governmental patronage, or for corrupt purposes, is effectually removed. So long as the selected banks shall continue to perform the duties required of

them by the provisions of the bill, (should it become a law,) and so long as they shall continue so to conduct their business as to keep the public funds deposited therein secure, they cannot be discontinued at the will of the Executive, but will be entitled to their custody as matter of right, unless it shall be the pleasure of Congress to withdraw them, or change the place of deposite.

The committee concur with the Secretary of the Treasury in the views which he has presented in his letter in regard to the importance of banishing from circulation bank notes of the smaller denominations, and of substituting gold and silver coins in their place. This may, doubtless, to some extent, be encouraged and effected through the collection and management of the revenue. Congress possesses no power to restrict the State institutions from issuing small notes, but they have the power to impose as a condition upon which any bank shall be employed as a depository, that it shall first stipulate not to issue or use, after a given future day, notes of the smaller denominations, in the course of its business; and they have a right to refuse to receive in payment to the United States, the notes of any bank which shall not cease, after a given future day, to issue small notes. The bill accordingly contains a provision to this effect, designed to induce the State banks to co-operate in banishing from circulation all notes of a less denomination than five dollars, after a given future day. In several States, such a prohibition already exists; and in those States a metallic circulation has been found to take the place of the small notes which have been withdrawn. It may necessary, hereafter, for Congress to extend the prohibition to the issue of notes below the denomination of ten or twenty dollars; but the committee do not deem it expedient, at this time, to recommend that the prohibition should be extended to notes above the denomination of five dollars. Should it hereafter be deemed proper, Congress can adopt further legislative provision upon the subject.

It will be perceived from the letter of the Secretary of the Treasury herewith reported, that further legislation in relation to the coins constitutes an important part of his scheme of the currency. The committee concur in opin- that it is important that further legal provision should be made regulating the value of foreign coins, and making the foreign gold and silver coins a tender in the payment of debts, and also regulating the standard of value of our owns coins.

They have, however, reported no bill upon the subject of the coins, because bills upon that subject have already been brought before the House by a select committee to whom this particular branch of the subject had been referred by the House. They concur in opinion that it is important they should be acted on at the present session of Congress.

Treasury Department, *April* 15, 1834.

Sir: I have the honor to acknowledge the receipt of your letter of the 7th instant, and proceed to reply to the inquiries made by the Committee of Ways and Means.

In my report to Congress at the commencement of the present session, assigning my reasons for removing the deposites from the Bank of the United States, I expressed the opinion that a corporation of that description was not necessary, either for the fiscal operations of the Government, or the general convenience of the people.

One of the arguments most frequently urged in favor of the expediency of a Bank of the United States is, the salutary influence which it is supposed to exert in securing to the country a sound currency. It is said the State banks have a constant tendency to over-issues, and that a superior power is necessary, to keep them in check, and to control them in this particular; and the argument is constantly and earnestly pressed, that a Bank of the United States is the fit and appropriate means to accomplish this object. If there be any force in this argument, the paper currency furnished by the State banks, as well as that issued by the Bank of the United States, ought now to be in a sound state. The Bank of the United States has been in existence seventeen years, and must have already exerted all the influence in relation to the currency, which can ever be expected from such an institution. And if it exercises a wholesome and salutary control over the conduct of the State banks, and restrains them within proper bounds, it has had full time and opportunity to exert that power; and the notes of the State banks, as well as those of the Bank of the United States, ought now to be found in a safe condition. For it must be admitted that we have gained but little by chartering the Bank of the United States, if only the comparatively small portion of the paper currency furnished by itself is sound, while the great mass of the circulating medium is inherently vicious, and liable to be disordered at any moment. It is believed that more than three-fourths of the present paper currency is furnished by the State banks; and if so large a portion of our circulating medium is unsafe and unworthy of credit, then the Bank of the United States is either incapable of exercising the salutary control claimed for it, or it has failed to perform its duty to the public. In either event it is time to look for some other remedy.

Judging from the best information which the Department has been able to obtain, the paper of the various banks (including the Bank of the United States) in actual circulation in ordinary times, amounts to at least eighty millions of dollars. Of this sum, the Bank of the United States furnishes generally less than twenty millions, and the various State banks more than sixty millions; the specie in the vaults of the same banks, to support this extended credit, does not probably exceed twenty-five millions.

In estimating the amount of specie, I confine myself to the coin supposed to be in possession of the banks. In some of the States, the circulation of bank notes below five dollars is prohibited by law; and in these States there is a considerable amount of specie passing from hand to hand, and forming a part of the ordinary circulating medium. It does not, however, probably exceed four millions of dollars. This metallic circulation lessens by so much the amount of paper, and to that extent it diminishes the evil occasioned by the great disproportion between the paper superstructure and its metallic basis. But the coin which is thus circulating cannot be brought in aid of the paper currency, when a panic, or any other cause, suddenly throws it back upon the banks for redemption. It cannot, therefore, be estimated as a part of the means to secure the payment of the actual paper circulation. It takes the place of so much paper in the mass of the circulating medium, and thereby lessens the amount to be redeemed; but it will never find its way into the banks when their notes are rapidly returning upon them. They must rely on the amount actually in their vaults; and it is with this amount that we must compare the paper circulation, in order to decide whether it is in a safe condition. It is evident that the chief part of the paper currency of the United States must always be furnished by the State banks. No Bank of the United States could provide a sufficient amount for the whole nation, without giving to it a capital of such enormous and startling magnitude, that no one, it is presumed, would seriously propose it. And if Congress are to legislate with the view of securing to the people of the United States a sound paper currency, the condition of the notes of the State banks is of much more importance to the community, than that of any bank of the United States. The notes of the different local banks form the ordinary circulating medium for the great body of our citizens; and it would be unjust to them to disregard its condition. The whole currency of the country should be placed in a sound and healthy state, as far as the legitimate authority of the United States will enable them to accomplish that object.

Under the authority delegated to Congress by the constitution of the United States, they have no power to establish by law a paper currency; and the influence which they may lawfully exercise in securing its soundness, is altogether incidental. In legislating within the admitted scope of their authority, they may, without assuming powers not granted, look to the effect which their laws will produce upon an interest of so much importance as that of the paper circulation now floating through the country.

Taking this view of the subject, the first inquiry is, what is the present condition of the ordinary circulating medium of the United States? Is the great mass of the paper currency in a sound and healthy condition? If it is, we must endeavor to find means to preserve it in its present state, when the Bank of the United States shall cease to exist. But if it is not, then it is obvious that the creation of a Bank of the United States will not accomplish this desirable object; and that, even on the score of expediency, without reference to constitutional objections, some other plan should be devised.

If the estimate I have made of the proportion between the paper circulation and the specie in possession of the banks be correct, or nearly so, the condition of the currency is obviously such that the nation should not be content with it, nor desire to continue it in its present state. It is an immense superstructure of paper, resting on a metallic foundation too narrow to support it. It has never been sustained by its own inherent strength, but by public confidence. When every one firmly believes that the notes of the banks will, on demand, be paid in coin, they readily circulate and answer all the purposes of money. But, the moment that confidence is impaired, they lose their value as a part of the circulating medium, and are returned upon the banks for redemption in specie; and the disproportion between the paper circulation and the coin prepared to redeem it, is so great, that it is constantly liable to have its chief support—*public confidence*—withdrawn from it.

In speaking of the dangers to which the currency is exposed, I do not mean to intimate that the State banks are unable to pay the amount of notes they have issued. On the contrary, I am persuaded that, with very few exceptions, they are as safe as the Bank of the United States; for that bank has never been in a condition to redeem its notes in specie, if they were all suddenly thrown back upon it. My object in inviting the attention of the committee to this subject is, not only to show the real condition of the currency, but to mark the utter inconsistency of the argument, which urges the recharter of the Bank of the United States on the ground that it has furnished a sound currency to the nation, and, at the same time, attempts to discredit the notes of the State banks. Both parts of the argument cannot be true. The Bank of the United States has not furnished the nation with a sound paper currency, and has produced no salutary effect on the great mass of it, unless the issues of the State banks are now in a safe and healthy condition.

The difficulties under which the State banks are laboring at this time, do not prove that they are unsound, nor that they have been worse managed than the Bank of the United States. When reports injurious to the credit of the State banks are industriously and widely circulated, some degree of embarrassment is unavoidable; especially when it is generally supposed to be in the power of the Bank of the United States to stop them at its pleasure. The evil is, however, in its nature, temporary, and will soon pass away; and the intelligence of the citizens will readily discover that the present difficulty is the offspring of useless alarm and excitement, and of a deliberate design to destroy the credit of the State banks. And, when the real object of the unfounded rumors which are daily circulated shall be understood by the people, confidence will soon be restored, and business resume its usual channel. The stoppage of a bank, from any cause, naturally produces a run on the banks in its neighborhood; and if pains are taken to increase the excitement and alarm, the evil will be more extensively felt than it would be in ordinary times.

The dangerous expansion of the paper circulation, compared with its specie basis, shows that there is something essentially vicious in the whole system; and the mischief, so far from being corrected or lessened by a Bank of the United States, is more probably aggravated by such an institution. The great amount of paper afloat proves that the quantity depends more on the discretion and judgment of those who make the paper, than on their ability to redeem it whenever it is called for. The dominion which a Bank of the United States must always exercise over the smaller corporations of the States, vests in it the entire discretion of expansion or contraction. If it discounts and issues its paper freely, the State banks are induced, by the hopes of profit, to follow its example. If it suddenly curtails, they must curtail also, or become the victims of their own imprudence. And if, by any means, the conduct of that bank disturbs the public confidence in the safety of the State banks, their notes will be returned upon them with such rapidity as to endanger even the best managed institutions; and while such a power remains in the hands of a single corporation, the country will be constantly liable to sudden agitations and excitements from the alternate expansion and contraction of the currency; and those engaged in commerce will, in the years of abundance, be led into an extension of their business, which must, in the succeeding years of scarcity, inevitably result in bankruptcy and ruin. In a time of pressure, confidence is easily shaken; and whenever it becomes the interest of the Bank of the United States to excite alarm in the country, its great money power will most commonly enable it to effect the object, and by destroying confidence and credit, in a few months throw the whole business of the nation into confusion. A system of currency thus liable to constant fluctuations, and always in danger of being entirely overthrown, is certainly one of the worst that can be devised. Every species of property is unstable and insecure, unless the currency which is to be exchanged for it shall be steady in its value, and not liable to be seriously disturbed by accident or design. And the danger and evil is abundantly manifested by the history of the United States, since the establishment of the present bank. Years of hollow prosperity have been succeeded by years of pressure and suffering; and the present condition of things demonstrates how readily a concerted effort to excite a panic and destroy confidence, may endanger the great mass of the circulating medium, and injure most extensively the property and industry of the country. The great evil of our present currency is, the disproportion between the paper in circulation and the coin prepared to redeem it. The remedy is, to diminish this proportion, and to give to the paper currency a broader and firmer metallic foundation. Can this object be best accomplished with or without a bank of the United States?

I do not perceive that a Bank of the United States, upon any plan, is likely to diminish the evil.

It may perhaps be supposed that a restriction on the bank, which would prevent it from issuing notes below twenty dollars, would tend to accomplish the object. But the only effect of such a restriction would be, to substitute the notes of State banks of the lower denominations, in place of the notes of the Bank of the United States.

Gold and silver will never circulate, where banks issue notes which come in competition with them. For it will invariably happen that when the circulating medium is composed of different kinds of money, and one of them is less valuable than the other, but not sufficiently depreciated to be discredited, the inferior will, after a time, become the general currency, and the more valuable will

entirely disappear. This is obvious in the States where the banks issue notes as low as one dollar; for silver dollars are never found in circulation where paper ones are freely issued by the banks. In order, therefore, to bring the precious metals into use, the rivalship of paper must be effectually taken away. We must not only remove the notes of the Bank of the United States, but also the notes of the State banks.

And to create a Bank of the United States, and restrict its issues, as above suggested, would be to invite the State banks to issue largely that description of paper which will not be interrupted by the competition of the Bank of the United States. The paper circulation would not be diminished, nor would the proportion of the metals be increased. Paper dollars would still be manufactured in the same abundance; they would still come in competition with gold and silver, and drive them from circulation.

The restriction therefore on the issue of the smaller notes, cannot be effectual, unless the several States shall be willing to co-operate with the legislation of Congress. They would hardly be expected to prohibit the issue of notes under twenty dollars by their banks, while a Bank of the United States was in existence with all the advantages it would possess over the State institutions. And if they could be induced to unite in such a plan, the inevitable result would be to put an end to the State banks. For their circulation of the larger notes would be so much restrained by the competition and superior advantages of the notes of the Banks of the United States, that the small State corporations would probably soon find their charters of no value, and be compelled to wind up their concerns. The field for paper currency would then be left entirely to the Bank of the United States. Their notes being receivable every where in payment of debts due to the Government, would give them a credit beyond their real value. The temptation under such circumstances to over-issues of paper would be almost irresistible. And after closing, by this course of legislation, the doors of the State banks, we should soon find ourselves with a paper currency equally liable to depreciation with the present one, from the great disproportion the paper would bear to the specie provided to redeem it. In a plan which would lead to such results, we could hardly expect the States to come in aid of the legislation of Congress, but we might count on their cordial co-operation in efforts to place the whole circulating medium of the country on a safe and durable foundation, when it can be done without injustice to their own citizens who are interested in the State institutions.

The first step towards a sound condition of the currency, is to reform the coinage of gold. The present gold coin is worth more in silver than its nominal value. It is therefore never seen in the ordinary exchanges of the country, and it is worse than useless to continue the expense of coining it at the mint, unless it is intended for circulation. It will never make its way into general circulation until the relative value of silver and gold is observed, as near as may be, in the pieces coined of the respective metals. It has been truly said that gold is the antagonist of paper. Silver is too heavy to be transported form place to place, in large sums, without inconvenience. Some other circulating medium of general currency is therefore necessary, even for the expenses of a journey from one State to another. There must be either a paper currency of general credit, or gold must be introduced. And it is essential that in its standard value as coin, it should be placed on its proper footing in relation to silver, before a paper currency of general credit can be conveniently dispensed with. The charter to the Bank of the United States, by making its paper receivable everywhere for debts due to the Government, furnishes a paper currency not equal to gold or silver, but yet of sufficient credit for common use, and for the purposes of travelling from place to place. This will continue until the 3d of March, 1836. It is desirable, therefore, that provision should be made at the present session of Congress for the reform of the gold coins. The coinage will require time, and as this general paper currency is gradually retiring from circulation, the gold should be prepared to take its place. We produce gold to a large amount in the United States, and the product is increasing every year. The greater part of it is now exported as bullion, and this will continue to be the case until the value of the gold coin is changed. Even if the change should be made at the present session, there would not perhaps be a sufficient supply of our own gold coins to meet the demand for a circulating medium of general credit, at the expiration of the charter of the Bank. But if foreign gold coins should be made a legal tender at their real value, there would doubtless be enough of that metal, at the time above mentioned, to meet the wants of the public. And there can be no sufficient reason for throwing out of circulation the foreign coins of gold or silver, which are current in other parts of the commercial world. Indeed, as a measure of immediate relief in the present state of things, it is necessary that the foreign coins, both of gold and silver, should be made a legal tender, in payment of debts, according to their intrinsic value. Very large importations of the foreign coins are continually arriving in the United States, and if they can be used by the State banks to discharge their engagements, they will probably remain here, and become a part of our circulating medium; and if they were made a legal tender in payment of debts, it would enable the State banks to extend their issues, and to redeem their notes with greater facility.

I respectfully invite the early attention of Congress to this subject, and regard the proposed alteration in our laws as peculiarly necessary in the present exigency, and calculated to produce immediate and extensive benefit. As the Bank of the United States withdraws its circulation, it is of the first importance that the State banks should be enabled to extend their issues and to supply immediately, by their notes, the place which was filled by the notes of the Bank of the United States.

With the reform of the gold currency, it is proper to associate measures to prevent the issue of small notes. The only step which Congress could with propriety take, in relation to the notes of the State banks, would be to provide that no bank should be a depository of the public money, nor should the notes of any bank be receivable in payments of debts to the United States, which issued notes below a certain denomination. We may safely rely on the co-operation of the several States to impose upon their banks the restrictions necessary to aid in this desirable change in the state of the currency. The alteration proposed, should, however, be gradual. A day might be fixed after which the restriction above mentioned should go into operation, as relates to notes below five dollars. A further restriction, so as to affect notes under ten dollars, would hereafter be advisable, and ought to be regarded as a part of the plan now proposed to be adopted. But it is not desirable, at this time, to name a definite day for that purpose. A great proportion of the issues of the State banks consists of five dollar notes. Any measure calculated to impair the currency of notes of this description, about the time the Bank of the United States is going out of existence, would be injurious to the public. When the Bank of the United States is withdrawing its notes from circulation, the void must be filled up by gold and silver, or by the notes of the State banks, or the currency will be injuriously contracted. And if notes of five dollars were then put out of circulation, the diminution of the currency would perhaps be severely felt. And no measure should be adopted, calculated to impede their circulation, until it shall be manifest that

the country is relieved from any inconvenience arising form the withdrawal of the notes of the Bank of the United States. But as soon as that period arrives, and it is apparent that gold and silver can be provided for the ordinary circulation below ten dollars, it would be advisable to extend the restriction to notes of that denomination. For we can never be safe from the fluctuations of the currency until all notes below ten dollars are banished from circulation. And it will be still more secure when the restriction is carried up to notes of twenty dollars, so as to substitute the gold eagles in the place of ten dollar bank notes.

It will be seen from this statement, that it is no part of the proposed plan to dispense with the State banks. It obviously is not in the power of Congress (if it desired to do so) to take any measures for that purpose, without an amendment to the constitution; and the States would not, and ought not to surrender the power of chartering banking companies. The State banks are now so numerous, and are so intimately connected with our habits and pursuits, that it is impossible to suppose that the system can ever be entirely abandoned. Nor is it desirable that it should be. They are often abused, like all other human institutions; yet their advantages are many, and under proper regulations, and with the metallic basis now proposed for their paper issues, they will be found of much public advantage.

If there were no State banks, the profitable business of banking and exchange would be monopolized by the great capitalists. Operations of this sort require capital and credit to a large extent, and a private individual in moderate circumstances would be unable to conduct them with any advantage. Yet there is perhaps no business which yields a profit so certain and liberal as the business of banking and exchange, and it is proper that it should be open, as far as practicable, to the most free competition, and its advantages shared by all classes of society. Individuals of moderate means cannot participate in them unless they combine together, and by the union of many small sums, create a large capital and establish an extensive credit. It is impossible to accomplish this object without the aid of acts of incorporation, so as to give to the company the security of unity of action, and save it from the disadvantage of frequent changes in the partnership, by the death or retirement of some one of the numerous partners. The incorporated banks, moreover, under proper regulations, will offer a safe and convenient investment of small sums to persons whose situations and pursuits disable them from employing their money profitably in any other mode. It is not more liable to be lost when vested in the stock of a bank, than when it is loaned to individuals. The interest on it is paid with more punctuality, and it can be sold and converted into cash whenever the owner desires to employ it in some other way, and if a larger portion of the metals is infused into the circulation, the business of banking will become more sound and wholesome, and less liable to the disasters from which it has suffered under our extravagant and ill-organized system of paper issues. It will render investments in banking companies entirely safe and secure to the holders, and afford them the almost absolute certainty of a reasonable profit, without endangering the capital invested in it. For these reasons, it is neither practicable nor desirable to discountenance the continuance of the State banks.

They are convenient and useful also for the purposes of commerce. No commercial or manufacturing community could conduct its business to any advantage without a liberal system of credit, and a facility of obtaining money on loan when the exigencies of their business may require it. This cannot be obtained without the aid of a paper circulation founded on credit. It is therefore not the interest of this country to put down the paper currency altogether.

The great object should be to give to it a foundation on which it will safely stand. A circulating medium composed of paper and gold and silver in just proportions, would not be liable to be constantly disordered by the accidental embarrassments or imprudences of trade, nor by a combination of the moneyed interest for political purposes. The value of the metals in circulation would remain the same, whether there was a panic or not, and the proportion of paper being less, the credit of the banks could not be so readily impaired or endangered.

The state of the currency then, which is proposed in the foregoing observations, would provide silver and gold for ordinary domestic purposes, and the smaller payments; and the banks of the different States would easily be able to furnish exchanges between distant places according to the wants of commerce. There cannot, therefore, be any necessity for a paper circulation of general credit throughout the country. Funds are more conveniently and safely transferred from place to place by drafts and bills of exchange than by bank notes. The immense operations between different parts of the United States are now chiefly carried on by this means, and it is only in particular places and for comparatively small amounts, that notes are used; and the local institutions would, without doubt, in a very short time make arrangements among themselves to furnish the exchanges which commerce requires, and the competition among many would reduce the rate of exchange to its proper level. Besides, they would find it their interest to make agreements among themselves to honor each other's notes to a certain extent, and thus furnish, as far as might be necessary, a paper currency of general circulation, in such places as would be likely, from their intercourse with each other, to require such a convenience. But the establishment of such a paper currency ought not to have any aid, direct or incidental, by legislative provisions. While it rests upon mutual arrangements among the banks themselves, they will keep the issues of each other within proper bounds. But when they are able to extend their credit by any legal provisions, in favor of their notes, the temptation is constantly presented to avail themselves of this advantage; and over-issues and over-trading are the necessary consequences. If, however, a different policy should be deemed advisable, the advantages now given by law to the Bank of the United States might easily be extended to the notes of the depository banks, and if their notes were made receivable in payment of all debts to the Government, their currency and general credit would be quite equal to that now enjoyed by the Bank of the United States. Believing, however, that such a provision would be calculated to increase the issues of paper, I cannot recommend it. The chief object of the plan I propose is to increase the proportion of the metallic currency without diminishing inconveniently the general mass of the circulating medium, and any provision tending to enlarge the proportion of paper beyond what the public convenience requires, should be studiously avoided.

The advantages of the proposed plan over the present currency, will not be confined to the superior stability of the paper circulation.

The laboring classes of the community are now paid their daily or weekly wages in bank notes of the smaller denominations, and if there are any in circulation of doubtful value or depreciated in public estimation, they are too often used in payments to the poorer and more helpless classes of society. They are not always judges of the value or genuineness of the notes offered to them; and consequently, are often imposed upon, and their small earnings still more diminished, by the depreciated character or entire worthlessness of paper in which they are paid. If the alteration suggested should be adopted, the smaller notes would soon be banished from circula-

tion every where, and the laborers would, therefore, be paid in gold and silver, and that portion of society which is most apt to suffer from worthless or depreciated paper, and who are least able to bear the loss, would be guarded from imposition and injustice. It is time that the just claims of this portion of society should be regarded in our legislation in relation to the currency. So far we have been providing facilities for those employed in extensive commerce, and have left the mechanic and the laborer to all the hazards of an insecure and unstable circulating medium.

It may be objected to this plan, that in giving to the Executive department the power of selecting these fiscal agents from whom among the State banks, an undue influence may be exercised over them, and the power be used for improper and corrupt purposes. The answer to it appears to be a plain one. The States in which these institutions are situated, can at all times control them, and would effectually interpose to prevent such abuses of power. Besides, with the diminished revenue which will hereafter be collected, on the reduced tariff of duties, it is impossible to imagine that the gain to be derived from the public deposites, when distributed, as they must be, among so many banks, and among so many stockholders in each bank, can ever be sufficiently important to tempt them to swerve from their duty, or to influence, in any respect, their conduct or opinions.

But it is proper, no doubt, in all cases, to restrict political power within certain and defined limits, and it will be advisable, therefore, to regulate the selection in such a manner as to remove all apprehensions of its abuse. The following are respectfully suggested for consideration:

If the danger of abuse is considered by Congress as one of any magnitude, and as likely to produce improper influence, it may be effectually removed, by making it the duty of the Secretary of the Treasury to divide the deposites among all the incorporated specie-paying banks of the place where the revenue is collected, in proportion to their respective capitals actually paid in, provided they are all willing to receive them upon the terms prescribed by law; and if they are not all willing, then among so many as would agree to take them.

Every danger of abuse in the selection will, by this mode, be taken away; and the safety of the money could be secured, by authorizing the Secretary of the Treasury to demand security from any of these banks, when, in his judgment, the public interest required it; and there might also be a prohibition against removing the money to any place, except where it was immediately necessary for the purpose of disbursement.

This mode would somewhat complicate the operations of the Department. Yet I do not perceive that it would produce any serious inconvenience to the public service. It might, and probably would, make it necessary to employ one or two more clerks in the Department; but that would be but a small consideration, if it be deemed advisable to take from the Executive all discretion over the subject.

If, however, Congress should agree with me in supposing that the danger apprehended from this discretion is more imaginary than real, I would then respectfully propose the following regulations:

1. That the Secretary of the Treasury should annually, at the beginning of each session, report to Congress the banks which had been used by him during the year, as the depositories of the public money.

2. That the banks once selected as the depositories of the public money, should be continued as such, unless, in in the judgment of the Secretary of the Treasury, the public interest required the depository to be changed; in which case, he should report to Congress, at its next session, the reason of the change.

3. That, in all cases where there were two or more banks at the same place where the revenue is to be deposited, at least two should be employed as depositories of the money of the United States, if they are willing to receive it, and give the security that may be required.

4. Where there shall be no banks at the places where the revenue is received, the money shall be deposited in such places as the Secretary shall direct, subject to the same obligation to report to Congress.

5. No bank to be selected as a depository of the public money, or continued as such, which shall deal in any stocks except those of the State in which it is situated, or of the United States.

6. After the third of March, eighteen hundred and thirty-six, no bank to be used as the depository of the public money, which shall issue or pay out notes below five dollars, and the notes of no bank to be received in payment of debts due to the United States, which shall issue or pay out notes of a less denomination than that above mentioned, after the time aforesaid, nor shall any bank be a depository of public money which does not pay specie on demand for its notes.

7. Each bank selected for the deposite of the public money shall return a statement of its affairs to the Secretary of the Treasury, once a month, or oftener, if required. Such statement shall show the aggregate amount loaned to its own officers and directors, and also the amount loaned on its own stock.

With these limitations it is belived that the public money will be safe; and that even the possibility of abuse will be taken away.

In submitting this view of the currency, and the plan of improving it, I have endeavored to provide against the danger of a too sudden contraction of the present circulating medium. I am not prepared to say that the amount in circulation is at this moment greater, or even so great, as the convenience of the country requires. I think it is not. For it has been rapidly and injuriously diminished; and it is to be regretted that the pains taken to destroy confidence in the great mass of the circulating medium has so far succeeded as to bring upon the community the inconvenience and suffering which a rapid reduction of the circulating medium unavoidably occasions. The great object now in view is to terminate forever the evil of the present system, and to place the currency on a foundation so stable that it cannot again be shaken.

If a broad and sure foundation of gold and silver is provided for our system of paper credits, we need not hereafter apprehend those alternate seasons of abundance and scarcity of money suddenly succeeding each other, which have so far marked our history, and irreparably injured so many of our citizens.

These remarks are respectfully submitted for the consideration of the committee.

I have the honor to be, sir, very respectfully, your obedient servant,

R. B. TANEY,
Secretary of the Treasury.

Honorable James K. Polk,
Chairman Com. Ways and Means, Ho. Reps.

House of Representatives, *March* 4, 1834.

Mr. Polk, from the Committee of Ways and Means, made the following report:

The Committee of Ways and Means have had under consideration the letter of the Secretary of the Treasury of the 3d of December last, communicating to Congress his reasons for ordering the public deposites to be removed from the Bank of the United States; the memorial of the president and directors of the Bank of the United States, complaining that the "chartered rights of the stockholders" have been violated, and asking redress; the memorial of that portion of the directors of the bank appointed

by the United States, making certain charges of misconduct against the bank; and also sundry other memorials and resolutions from other banks and citizens in relation thereto; which have been referred to them by the House, and have agreed to the following report:

The Secretary of the Treasury, in his letter of the 3d of December last, informs Congress that, "in pursuance of the power reserved to him by the act to incorporate the subscribers to the Bank of the United States, he had directed that the deposites of the money of the United States shall not be made in the said bank, or branches thereof, but in certain State banks which had been designated for that purpose;" and he proceeds to lay before Congress the reasons which induced him to give such order and direction.

The bank, in its memorial, draws in question the power of the Secretary to issue such order, and also the sufficiency of his reasons for the act.

From the language employed, it is apparent that the bank claims the custody and use of the public deposites as a "chartered right," and, in case of a removal for reasons which the president and directors may not deem sufficient, asserts the prerogative of making the bank a party in the transaction.

They assume that the "chartered rights of the stockholders" have been "violated," and demand "redress," as an act of "justice."

It is the opinion of the committee that the question as to the power of the Secretary of the Treasury, and the sufficiency or insufficiency of the reasons for which he may have ceased to make the Bank of the United States the depository of the public moneys, is one exclusively between that officer and the constituted authorites to whom he is responsible. To pronounce a decision upon the act, and the reasons which superinduced it, appertains exclusively to the Government, and is a question in which the bank has no right to interpose for the purpose of influencing the decision.

The bank denies the authority of the Secretary of the Treasury to issue his order for removing the public deposites from its custody, and claims possession of these deposites as a chartered right, because, as it alleges, "the bank has in all things performed the stipulations of the charter."

The Secretary of the Treasury, in his letter, affirms that the bank charter conferred upon him no new power or control over the public deposites, but was a reservation of a power previously possessed by him, and one which had been exercised by the head of the Treasury Department from the origin of the Government, and that none of the "chartered rights" of the bank have been violated by the act complained of.

The ground should be well examined before it is conceded that a power which essentially belongs to the Treasury Department, and has always been exercised under the responsibility of the Secretary, has been transferred to a corporation, which claims to be irresponsible to the Government and people of the United States, except for palpable violations of its charter.

To arrive at a clear understanding of the power of the Secretary to designate and direct the places of deposite of the public moneys, it is necessary to trace it from its origin, to show by whom, and how it was exercised prior to the establishment of the Bank of the United States, and how far it has been regulated, modified, or transferred by the charter of that institution. The continental Congress of the Revolution, as far as it possessed any attributes of Government, united in itself the powers of every department. In managing the concerns intrusted to its guardianship, it acted as much in an executive as a legislative capacity. The first germ of the Treasury Department of the United States is found in a resolution of that body as early as the 29th July, 1775, to the following effect, viz. "*Resolved*, That Michael Hillegas and George Clymer be joint treasurers of the United Colonies; that the treasurers reside in Philadelphia; and that they shall give bond, with surety, for the faithful performance of their office, in the sum of one hundred thousand dollars," &c. In their hands were placed all the funds of Congress, to be drawn out on the warrants of the President of Congress. They were directly responsible to Congress, settled their accounts with that body, and held their offices at its will.

In various other resolutions and ordinances, subsequently passed, we trace the process by which the continental Congress gradually vested a portion of its executive powers in subordinate agents, appointed by its vote, and removable by its will. It began with appointing Treasurers, over whom it exercised a direct superintendence. It next vested the superintending power over that and other officers of the Treasury in a standing committee of its own body. Next, it was vested in Commissioners, a part of whom were members of Congress, and a part not members. Finally, by creating "civil executive departments" of the Treasury, War, and Marine, it separated the superintending power over the Treasurer, and other subordinate officers of the Treasury, wholly from its own body, reserving the right of removal, and, in case of necessity, controlling the whole system. The principle on which the department was organized was in no degree changed by afterwards instituting a "Board of Treasury" for the "Superintendent of Finance."

It will be observed that, in the first instance, the power to direct the Treasurers, in relation to the place where they should keep the public moneys, as well as every other portion of their duties, was vested in Congress. This power was afterwards vested, successively, in the Committee on the Treasury, the Commissioners of the Treasury, the Superintendent of Finance, and the Board of Treasury. The power was expressly conferred on the "Superintendent of Finance" and "Board of Treasury," "to superintend and control the settlement of all public accounts, and to *direct and control all persons employed in procuring supplies for the public service, and in the expenditure of public money;*" and the ordinance expressly provides that a Treasurer, &c. shall be appointed "*in aid of the Superintendent of Finance.*" The Superintendent, therefore, had a right to direct him in all things in subordination to the resolutions and ordinances of Congress, which was the head of the Executive department.

At the time the present constitution was adopted, the Treasury Department was managed by the "Board of Treasury," consisting of three Commissioners, aided by a Comptroller, a Treasurer, a Register, Auditors, and a competent number of clerks. The Board had power to direct the Treasurer in all his acts, and were themselves responsible to Congress, the head of the Executive department in the existing Government.

The new constitution took the entire Executive power away from Congress, and vested it in an independent coordinate department of the Government. It declares that "the executive power shall be vested in a President of the United States of America; that he shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors, or other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such *inferior officers* as they think proper, in the President alone, in the courts of law, or in the *heads of Departments.*"

Thus, by the voice of the people of the States, assembled in their several sovereignties, was the entire executive power, including the power of appointment, and consequently of removal, taken away from Congress, and vest-

ed in the President. The ultimate supervision and control of the officers of the "civil executive departments" was taken from Congress, and vested in the President of the United States, and to enable him to exercise it with the more effect, he was, by the constitution itself, clothed with authority to "require the opinion, in writing, of the principal officers in each of the executive departments, upon any subject relating to the duties of their respective offices." To the President, therefore, was transferred, by the new constitution, that power of appointment and removal, and ultimate supervision over all the executive departments of the Government which had before belonged to Congress.

The change in the form of Government effected by the new constitution, made it necessary to reorganize "the civil executive departments" which existed under the confederation. At the first session of the new Congress, therefore, an act was passed, entitled "An act to establish the Treasury Department." The first section of that act provides "that there shall be a Department of Treasury, in which shall be the following officers, namely, a Secretary of the Treasury, to be deemed head of the department, a Comptroller, an Auditor, a Treasurer, a Register, and an assistant to the Secretary of the Treasury, which assistant shall be appointed by the said Secretary."

The duties assigned to the Secretary of the Treasury are in a great measure identical with those assigned by the old Congress to the Superintendent of Finance.

The offices of Comptroller, Treasurer, and Register of the Treasury Department, under the confederation, were retained under the new system, with similar duties attached to them. The very language of the old ordinances, in relation to the leading duties of the Treasurer, is copied into the act of Congress of 1789, establishing the Treasury Department, viz. "*It shall be the duty of the Treasurer to receive and keep the moneys* of the United States, and *disburse the same upon warrants*," &c.

That act was construed at the time of its passage, and has been ever since, as conferring on the Secretary of the Treasury all the powers which, under the old confederation, had been exercised by the "Board of Treasury," and we accordingly find that Alexander Hamilton, the first Secretary of the Treasury, and all of his successors in that office, down to the time of establishing the present Bank of the United States, constantly exercised the power of directing where the public moneys in the Treasury were to be deposited. It was sometimes placed in the hands of individuals, sometimes in State banks, and a part of it in the former Bank of the United States. It was never supposed, during the period above mentioned, to be the province of the Treasurer to make the selection, nor did he ever attempt to exercise the power. It was by uniform usage, and the acquiescence of Congress, and all the branches of the Government, from 1789 down to 1816, admitted to be placed by law under the exclusive power of the Secretary, subject to the supervision of the President, as the head of the Executive department. Under the construction given to the same act, and by uniform usage, the principle was equally well established, that to the Secretary of the Treasury belonged the exclusive power of ordering transfers of public money from one place of deposite to another, and the warrants or drafts issued for that purpose did not take the funds from the debit of the Treasurer, and were never considered as drawing them out of the Treasury. The public revenue can never be entirely collected and disbursed at the same places. It must necessarily be transferred from the points of collection to places where it may be needed, and deposited in secure places for safe keeping prior to disbursement. If in this operation it remains charged to the Treasurer on the books of the Treasury, although separated into a thousand parcels, and in every part of the Union, it is still in the Treasury, ready to be disbursed upon warrants drawn according to the laws. The committee annex to this report, by way of appendix, various official documents, establishing conclusively the position they have here stated.

At the period, therefore, that the charter of the present bank was granted, the power of the Secretary of the Treasury over this subject was one well known and understood. It had been clearly settled by long usage and invariable practice, under the act of 1789, and with which the Congress of 1816, when they chartered this bank, were perfectly acquainted, and to which they must have intended to refer, when they speak in general terms of his power over the public deposites, without defining or prescribing its limits.

The sixteenth section of the charter declares that the deposites of the moneys of "the United States in places in which the said bank and branches thereof may be established, shall be made in the said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case, the Secretary of the Treasury shall immediately lay before Congress, if in session, and, if not, immediately after the commencement of the next session, the reasons of such order and direction."

This section grants no new power to the Secretary of the Treasury: on the contrary, as far as it operates at all, it is a reservation of the power which before existed to select the depositories for the public funds. The Secretary, therefore, does not derive his power over the subject from this act.

Being a reservation, and not a grant of power, the Secretary of the Treasury retains all the powers over the public moneys he before possessed, except so far as they may be modified or taken away by the bank charter. The power of transfer not being alluded to in the section, is not restricted by it, and of course is possessed by the Secretary of the Treasury to the same extent as before.

Accordingly, transfers have constantly been made since the bank charter was granted as before, not only from one office of that bank to another, but from that bank and its offices to State banks. Hereto annexed is a list of numerous transfers from the Bank of the United States to State banks, taken from a report of Mr. Secretary Crawford to the House of Representatives, dated February 7, 1823.

The error upon this point consists in considering the provision in the bank charter a grant of power, instead of the reservation of a power previously existing. Not finding the power of a transfer *granted*, it has been denied that it exists, when in fact the silence of the section leaves it as it was before.

The effect of the sixteenth section of the bank charter is to take from Congress entirely the power to control the public deposites which that body before possessed. It provides that the deposites of the moneys of the United States shall be made in the Bank of the United States, without reserving to the legislative authority any power to order their removal with reason or without reason.

Whether the Congress of 1816 acted wisely in thus divesting themselves of all control over the places of public deposite of the public moneys for the long period of twenty years, is a question which it is unnecessary to determine. It is certain that they did so, and during the continuance of the charter, therefore, they must have continued to be made in the Bank of the United States, unless the Secretary of the Treasury had otherwise ordered and directed. It was stipulated with the stockholders that they should have the public deposites, unless the Secretary otherwise ordered, and that the legislative authority would not interfere to take them away during the continuance of their charter.

This section of the bank charter, although it surrenders

the power of Congress over the public deposites for twenty years, and indicates a legislative preference for the Bank of the United States as a depository, does not diminish the *positive power* of the Secretary of the Treasury over the subject. He had the same legal power after the passage of this act, to order and direct the public deposites to be made in other banks, as he had before. An *additional duty* was imposed upon him; but how can this requirement impair his power? Had the clause requiring the reasons to be reported been omitted, could it have been doubted that the power of the Secretary to cause the deposites to be made in other banks would have been absolute and unqualified? And how can the necessity for giving his reasons, after the act is done, impair his power to do it? Before the bank charter was granted, the Secretary of the Treasury was liable to be called on by Congress for his reasons for discharging one bank from the service of the Treasuty, and employing another, and it was his duty to give them. The change effected in his position is, that he is now bound by law to give his reasons, without a special call. But the giving of his reasons *now*, after the act is done, can no more affect his power to do it, than giving his reasons *then*, under a special call of Congress. And his duty to act only for good reasons, and his liability to be punished for measures originating in corrupt or wicked motives, were just as strong then as now.

That it was intended this power should be exercised, as it always had been, by the Executive authority, without consulting Congress, is proved by the fact that the Secretary is not required to give his reasons to Congress, even though they may be in session, *until after the act is done*. If it had been intended that he should be directed and advised by Congress before he acted, provision would have been made that, when Congress are in session, the reasons should be laid before them for their consideration and approval before the act was done.

In illustration of the view here taken of the proper interpretation of this provision of the bank charter, and the power reserved by it to the Secretary over the public deposites, the committee refer to another provision of that charter. By the fourteenth section, it was stipulated by Congress in behalf of the United States, with the stockholders of the bank, "that the bills or notes of the said corporation originally made payable, or which shall have become payable on demand, shall be receivable in all payments to the United States, *unless otherwise directed by act of Congress*." It was important for the bank, in order to obtain general credit and circulation for its notes, that they should be received in payment of public dues. The charter provides that they shall be receivable in all payments to the United States, but upon the express condition that Congress reserves to itself the right to provide by law that its notes shall not be received in payment of the public revenue. This was a power reserved to Congress, to which the bank agreed, as was the power reserved to the Secretary to remove the deposites, to which the bank in like manner agreed. Now, it will not be maintained by any one that Congress may not, at pleasure, without any violation of the charter, or any infringement of the contract with the bank, by law refuse to receive the notes of the bank in the payment of the public dues.

If the Secretary of the Treasury, without an act of Congress, should attempt to prohibit the receipt of the notes of the bank in payments to the United States he would usurp a power which belongs to the legislative authority; and in like manner, if Congress, without the previous order and direction of the Secretary of the Treasury, were to attempt to cause the public deposites to be removed from the bank, they would usurp a power which does not belong to them. The bank would have the same cause to complain if the Executive refused to receive its notes in payment of public dues, without the authority of an act of Congress, as it would have if Congress were to remove the deposites without the previous order and direction of the Secretary of the Treasury, and no more.

The power reserved to Congress to discontinue the receipt of the notes of the bank in "payments to the United States," is absolute and unqualified. In like manner, the power of the Secretary of the Treasury, for reasons which he is required to report to Congress, to employ other depositories of the public moneys, is equally absolute and unqualified. Neither Congress nor the Secretary are required to give any reasons to the bank. And if Congress were, for reasons satisfactory to themselves, to pass a law declaring that the notes of the bank shall no longer be taken in payments to the United States, the president and directors of the bank would have no just ground of complaint that their "chartered rights" had been violated. Is the case now presented at all different in principle? Have they any just ground to complain that their "chartered rights" have been violated by the act of the Secretary, in the removal of the deposites? The bank charter is a contract between *the Government of the United States and the stockholders.*

To see that the Secretary of the Treasury acts from pure motives, and judge whether further legislation be not necessary on the subject, Congress require of him to report his reasons to them. This is an arrangement between the legislative and executive departments of the Government, who are jointly one party to the contract, with whose arrangement the bank, as the other party, has no concern. The stockholders entered into the contract, in which the Government reserved the right to reject their notes, and discontinue their bank as a depository—the one through Congress, and the other through the Secretary of the Treasury, without assigning to them any reasons whatever. Whenever either of these powers is exercised by the agent to whom it has been reserved, no stipulation of the contract has been violated, and the bank has no right to complain.

Not only was no stipulation made with the bank that its notes should be received in payments to the United States, and that it should be employed as a depository of the public moneys longer than it should be the pleasure of the Government, but any contract of that sort on the part of the Government would have been indiscreet and improper. To have absolutely bartered away to a corporation the high powers of both the legislative and executive departments, and left the Government of the people absolutely dependent on a corporation of its own creation for the currency in which the public dues should be paid, and the places in which the public moneys should be kept, would have been an assumption of power on the part of those who created the bank charter, which the boldest advocates of a controlling power over the popular will never dared to maintain. Many unforeseen considerations might render it expedient, if not indispensable, to the preservation and protection of the public interests within a less period than twenty years, to sever the connexion between the Government and the bank; and no Congress has yet been found so improvident as to transfer from the Government the power to determine what currency it will or will not receive in payment of the public dues, and to select at will the depositories of the public funds; much less have they imposed on the public authorities, and on Congress themselves, the degrading duty of giving reasons to a corporation for measures they may deem essential to the interests of the people, the purity of the Government, and the preservation of our invaluable institutions.

The removal of the deposites by the Secretary of the Treasury from the Bank of the United States, so far from being a usurpation of a power belonging to Congress, actually restores to that body a power of which they had, by the terms of the charter, divested themselves. So far as regards Congress, the contract is *absolute*, that the de-

posites shall be made in the Bank of the United States, and no shadow of authority is reserved to them otherwise to "order and direct." Congress divested itself of all power of control over the deposites, unless the Secretary should first issue his order for the removal. The exclusive power to issue such order was reserved to the Secretary of the Treasury, and but for his action the deposites must have remained beyond the reach of Congress until the termination of the bank charter. The moment they are out of the bank by the order and direction of the Secretary of the Treasury, as provided in the charter, all the original power which Congress possessed over them reverts to that body. They may by law direct their future disposition. If they think proper to relieve the Executive from all responsibity for the safe-keeping of the public funds, they may, by an act of legislation, designate the depositories in which they shall be kept. The power with which, in the opinion of the committee, Congress should never have parted, has been restored to that body by the act of the Secretary, and it is not perceived upon what ground he can be charged with a usurpation of their powers, by an act which has essentially enlarged them.

In the section of the bank charter reserving to the Secretary of the Treasury the power over the deposites, it is not stated what reasons may be sufficient to justify him in directing the moneys of the United States to be deposited in other banks. That they ought to be good and honest reasons, there can be no doubt. Before the Bank of the United States existed, he was equally bound to have such reasons for discharging one bank and employing another, as well as for all his other official acts. If they be not *honest*, he may be impeached by Congress, or dismissed from office by the President; if they be not *good*, he may be overruled by a subsequent act of legislation, providing for their restoration, or designating some other place of deposite than that which he may have selected. But if they be both *honest* and *good*, the transaction should be at an end when they are reported to Congress.

It has been recently maintained in argument, that no reason but a want of safety can justify the removal of the deposites from the Bank of the United States; that the security of the public funds was the sole object which Congress had in view; that, having confidence in the bank, the act of charter directed the deposites to be made in it; but, lest at any time they should become insecure, they reserved to the Secretary of the Treasury the power of removing them, with a view solely to render them more secure, and that for the same reason he was required to assign his reasons to Congress, whenever he did order the removal, that Congress might review his act.

It is to be observed that the words of the bank charter recognising the power of the Secretary to remove the deposites, do not define the reasons or circumstances which will authorize him to act, and the necessary inference is, that he may act, for any reasons which to him shall seem sufficient.

If want of safety was the only reason which could justify a removal of the deposites, why was the Secretary required to report his reasons at all? If there could be but one sufficient reason, Congress would have known it as well without being reported, as with it; and if there could be but one reason, why was it not so declared in the charter?

There are good grounds to believe that want of security was not the only, nor the chief reason in the mind of Congress, when they required of the Secretary to assign the reasons of the act to them. Suppose it to be discovered by the Secretary that the bank is in a tottering condition, and on the verge of stopping payment, what advantage would the Government gain by a sudden withdrawal of its funds? Under the circumstances supposed, the first effect of such a measure would probably be to compel the bank instantly to stop payment, and, as a consequence, its notes would become fatally depreciated; but the bank charter requires that its notes shall be received in all payments to the United States, unless Congress shall by law otherwise direct. All the revenues would then be paid in their notes, however much they might be depreciated; for the Secretary would have no authority to refuse them until Congress repealed the provision which required them to be received in payments to the United States. To remove the public funds, therefore, for want of safety, would be to depreciate the currency in which the accruing revenue must be received. Instead of having a deposite of good money in a *doubtful bank*, we might have one of *bad money* in *good banks*. The Bank of the United States would be more likely to pay the warrants of the Treasurer if the deposites were left in its possession, than it would to pay its own notes, received in payment of revenue, if they were taken away. Instead of removing the deposites, in such a case the public interest would require every practicable effort on the part of the Treasurer to sustain the credit of the bank, at least until Congress could repeal the provision which makes its notes a tender in all payments to the Government. He would be a faithless Secretary who should depreciate the currency he is bound by law to receive in payment of public dues, and, under pretence of putting the public funds already collected in a safe place, resort to a measure which would inevitably make the currency which he was bound to receive in payment of the accruing revenue in a great degree worthless.

But the contemporaneous and continued construction of the clause in the charter relative to the Secretary's reasons, even if the meaning of the words themselves was at all doubtful, is conclusive to show not only that the Secretary possesses full power to order the removal, but that it is his duty to do so for other reasons than the insecurity of the public funds. On reference to the correspondence and documents connected with the Treasury Department, we find that Mr. Crawford, who was Secretary of the Treasury at the time the bank went into operation, in sundry letters, distinctly asserted his power, under the charter, to cause the deposites of public money to be made in State banks, for various reasons; and that he did actually exercise the power during the first year of the bank's existence, reporting his reasons to Congress at the next session; and that he did again exercise it in the year 1818; on both of which occasions it was not contested by the bank, and not called in question by Congress. We find that, in 1819, the power was expressly asserted by a committee of Congress, and by eminent members in debate, without controversy; and that at a subsequent period, (1824,) when Mr. Crawford's arrangements with State banks were called in question, and investigated, it was declared by a committee of the House of Representatives that there was nothing in them in violation of law, or contrary to the usages of the Department. The successors of Mr. Crawford in the Treasury Department, (Mr. Rush and Mr. Ingham,) have asserted the power; and it was admitted to exist for other purposes than the security of the public deposites, by the Committee of Ways and Means of this House, as late as 1830.

The grounds on which it has been asserted the power may be exercised, have been to equalize the benefits resulting from the deposites among the banking community; to aid the State banks in maintaining their credit; to induce them to resume specie payments; to prevent a pressure on their debtors; the refusal of the Bank of the United States to receive, as cash, the notes of banks which it was deemed the interest of Government to receive from its debtors; the public convenience; the misconduct of the bank; its interference in politics, and the use of its pecuniary power to produce injustice and oppression. These several grounds of action, suggested sometimes by the Secretary of the Treasury, sometimes

by committees of Congress or its members, as well in public documents as private correspondence, were never declared to be illegal or invalid even by the bank itself; nor does it appear ever to have been maintained or suggested that the want of security was the only good reason for the action of the Secretary, until since the removal by order and direction of the present incumbent. The committee consider the point too clear, under the words of the law and the practice of the Government, to be now seriously called in question. Extracts of letters and reports are given in the appendix to this report, which fully establish the positions here asserted.

It has also been objected to the act of the Secretary, that conceding to him the power to remove the deposites, and to direct them to be placed in State banks, that yet he had exceeded his authority in entering into contracts with the new depositories, prescribing the terms of deposite, and the duties and services which they should be required to perform for the Government, in consideration of the use of the public moneys. The committee are of opinion that there is nothing in this objection. Money of the United States could not be placed in their keeping without a contract with them. If there was no written agreement, the law would imply one; it would imply a contract on the part of the deposite banks to pay, and if they refused to pay, the United States might sue and recover the money. If the Secretary, by depositing the money in a State bank, may make an implied contract, by which the bank would be bound to pay, surely he may make an express one. The objection, therefore, that he may not enter into a contract, although he has a right to deposite the money, is wholly untenable. If the State banks are selected lawfully as agents, and their duties not defined by law, they must necessarily be defined by contract, and the United States have the same right to take care of their interests, in this respect, as an individual.

In making these contracts, the present Secretary has but followed the example of his predecessors, and has manifested an anxious care to protect the interests of the United States; and so far from being justly subject to censure, deserves rather to be commended for his vigilance in guarding the public treasure, as far as possible, from danger of loss. But suppose all that has been urged, by those who rely upon this objection, to be true, suppose the contracts to be in fact void, still the public money is not less secure in the State banks than it would have been if no contracts had been made. In any view, therefore, the committee are of opinion that the objection is utterly futile, and deserving of no consideration.

It has been the constant practice of the Treasury to make such contracts with the banks selected as the public depositories, examples of which may be found in the official letters of Mr. Gallatin and Mr. Crawford, hereto annexed.

The committee are of opinion, therefore, that the Secretary possessed the power to issue his order for the removal of the deposites, and they are further of opinion that none of the chartered rights of the stockholders of the bank have been violated by it.

The bank in their memorial allege, "that in consideration of a full equivalent, rendered by them in money and services, they were entitled to the custody of the public moneys." To this proposition the committee do not assent. It appears by the 20th section of the act of charter, that the bonus of a million and a half of dollars was paid by the bank, in "consideration of the exclusive privileges and benefits conferred by this act upon the said bank." This was the only money paid by the bank to the United States, and it was paid, not for the use of the public deposites, but for the exclusive privilege and benefit of banking conferred by the charter, and especially by the provision contained in the 21st section, viz.

"That no other bank shall be established by any future law of the United States, during the continuance of the corporation hereby created, for which the faith of the United States is hereby pledged."

The only services which the bank stipulates to perform for the Government, are "to perform the several and respective duties of the commissioners of loans for the several States, or of any one or more of them, whenever required by law," and to "give the necessary facilities for transferring the public funds from place to place within the United States, or the Territories thereof, and for distributing the same in payment of the public creditors, without charging commissions or claiming allowance on account of difference of exchange."

It nowhere appears in the charter of the bank that these services were to be performed by the bank in consideration of the use of the public deposites; but if it did so appear, it is evident that so soon as the deposites are withdrawn, the bank, not having possession of the public funds, can no longer be required to perform these duties. The committee think it much more likely that the consideration for these services, in the minds of those who enacted the bank charter, was, that the United States agreed, on their part, to receive the notes or bills of the bank in payment of the public revenue, thereby enabling the bank to give general credit and circulation to their paper. Mr. Dallas, the Secretary of the Treasury at the time the bank charter was granted, in a letter addressed to the "Committee on the National Currency," dated the 24th of December, 1815, confirms this opinion. In that letter Mr. Dallas states, "It is proposed that, in addition to the usual privileges of a corporation, the notes of the national bank shall be received in all payments to the United States, unless Congress shall hereafter otherwise provide by law; and that, in addition to the duties usually required from a corporation of this description, the national bank shall be employed to receive, transfer, and distribute the public revenue, under the direction of the proper department." Congress adopted this suggestion of the Secretary, and hence we find that, by the 14th section of the bank charter, Congress agree to receive the notes and bills of the bank in payment of public dues; and by the 15th, the section immediately following, the bank stipulates to transfer and distribute the public funds from place to place without charge to the United States. In the same letter, Mr. Dallas negatives the idea that the deposites constituted any part of the consideration, either for the bonus, or the services stipulated to be performed by the bank. He states that "it is proposed that a bonus be paid to the Government by the subscribers to the national bank, in consideration of the emoluments to be derived from an exclusive charter during a period of twenty years." This suggestion of Mr. Secretary Dallas was also adopted by Congress, by a provision to that effect contained in the 20th section of the bank charter, before recited. In the same letter, Mr. Dallas holds the following language in relation to the "deposites and the distribution of the public revenue," viz. "Independent of the bonus here proposed to be exacted, there are undoubtedly many public advantages to be drawn from the establishment of the national bank; but these are generally of an incidental kind, and (as in the case of the deposites and the distribution of the revenue) may be regarded in the light of equivalents, *not* for the monopoly of the charter, but for the reciprocal advantages of a fiscal connexion with the public Treasury." It thus clearly appears that the ground assumed by the bank, that it had rendered "a full equivalent" in "money and services" for the use of the public deposites, is erroneous, and is not sustained either by the bank charter itself, or the opinion of the head of the Treasury Department, who furnished the plan, and largely contributed to found

the present Bank of the United States. Upon this ground, therefore, the committee think the bank cannot justly complain that any of the chartered "rights of the stockholders" have been violated by the late removal of the public deposites from its custody. The committee proceed to consider the sufficiency of the reasons assigned by the Secretary for the exercise of his power, in the case submitted to them by the House for their examination.

These reasons may be classed under two general heads:

1st. Those which have relation to the public interests.

2d. Those which have reference to the conduct of the bank.

The first reason given by the Secretary is the fact that the charter of the Bank of the United States will expire on the 3d of March, 1836, and the probability that it will not be renewed. He has not undertaken to decide that the bank will not be rechartered; but he has said he has no right to presume that it will be. He has said that he must act under the law as it exists, and not as it may by possibility be changed or altered by the action of Congress hereafter. He has said that the bank charter will expire by its own limitation in the year 1836, and that he would not be justified in acting upon the supposition that the charter will be extended beyond that period; he has said further, that, in his judgment, the presumption was very strong that the charter would not be renewed. In the opinion of the committee, he was warranted in coming to this conclusion. What are the facts upon which an opinion on this point is to be formed? The corporation itself had made the renewal of its charter the leading question in the last contest for the Presidency. It had procured from Congress the passage of a bill to renew the charter, and elicited a veto from the President. Its advocates every where were uncommonly active. It is even charged with having stepped into the arena itself, and resorted to unusual means to give information to the people "relative to its nature and operations" Although, in addition to its own strength, it was sustained in the conflict by a combination of powerful political elements, it was signally defeated, and the President triumphantly re-elected. This result could not be otherwise considered than as a verdict of the people in favor of the veto, and against the bank.

If any doubt had existed in relation to the decision of the people on that point, we may confidently appeal to the elections of members to the present Congress for its solution. Of the many expressions of public opinion through the more numerous representatives of the people in the State Legislatures, presented to Congress, and referred to this committee during the present session, in relation to the bank, not one has recommended its recharter, while most have declared it unconstitutional.

That the bank would ever be rechartered, there was, therefore, when the Secretary gave his order to remove the deposites, but little reason to believe, and there is less now.

Nor was there any reason to believe that a substitute for the present bank would be provided by Congress. Of all the schemes suggested, none seemed to have met with any considerable portion of favor from the people. There were, therefore, abundant reasons to believe that the Government would be under the necessity of resorting to the employment of State banks, in the same manner as before the present Bank of the United States was created.

The transfer of the public deposites from the Bank of the United States and branches to the State banks, at some period, was therefore inevitable. The only question was as to the time. Ought they to have been made in the Bank of the United States to the last day of its existence, or to have been changed at an earlier day? and if so, how much earlier?

The public deposites constituted, substantially, a part of the capital of the bank, and enabled it to maintain an extension of business, which would have been impracticable without them. If the deposites had remained in the bank until the close of the charter, that institution must either have commenced its curtailments at a preceding period, and locked up from the use of the community a large amount of funds, or the contraction of its business at the termination of the charter, to meet the demands from the public deposites, pay over its private deposites, redeem its returning circulation, and reimburse its stockholders, must have created a most appalling pressure upon the country. It was certainly wise policy to divide this operation, and save the community from being overwhelmed by all these demands at once. A withdrawal of the public deposites was calculated to produce that result. A part of the private deposites would naturally follow the public, and it was reasonable to suppose that when the effective capital of the bank was curtailed, and it ceased to be the disbursing bank for the officers of Government, its circulation would be diminished. These consequences flowing gradually from a gradual removal of the deposites, would make it necessary for the bank, by gentle degrees, to call in its loans and restrict its business, so that, at the termination of its charter, its demands on the community would be less, and the pressure lighter. These views, which appear to have been entertained by the Secretary of the Treasury, seem to have been verified by results. The bank has proceeded to call in its loans, and has already wound up its concerns, to the amount of about fifteen per cent. of all it had under discount. The manner in which this operation has been conducted will be adverted to in another part of this report, as will also the effect produced by it. It is sufficient to remark here, that if embarrassment has been produced by it, (which could not have been its necessary effects,) it rather proves the prudence and wisdom of the measure, than its improvidence or hastiness. And if the mere removal of the deposites so long before the termination of the charter has caused the public distress which is now alleged to exist, how overwhelming must it have been if that operation had been delayed until the expiration of the charter, when other inevitable demands to a larger amount would have been superadded? It is only by dividing the evils which this bank in its last moments has power and seems disposed to inflict upon the country, that they can be made tolerable: and it is wise in the Government so to conduct its policy that they shall not all be brought upon it at once.

A new system of collection and disbursement cannot be introduced and put into operation throughout this extensive country at once. Local and temporary causes will be likely to interfere with its introduction, which it will require time, patience, and labor, to surmount. In some places it may be difficult at first to find safe and willing agents to transact the business of the Treasury. By introducing the new system before the old system is out of existence, the former agents may continue to be employed in such places until the difficulties be overcome. But if the removal were delayed until the moment the old system ceased to exist, such might be the influence or power of its advocates, and such their resolute determination to force its continuance, that they might make it impossible for the Government, upon the emergency, to employ suitable agents. To obviate those difficulties which might create great embarrassment; to introduce and put into harmonious operation all the machinery of a new system throughout a country so extensive, cannot surely require less time than has been taken by the Secretary of the Treasury.

There appears also to be much force in the considerations urged by the Secretary, connected with the currency of the country and the domestic exchanges. The

notes of the Bank of the United States must necessarily in a short time be withdrawn from circulation. That the principal currency of the country, for many years to come, will be bank notes, there is no reason to doubt; and it is certainly good policy to foster the State banks, which furnish them, in measures tending to give them as general credit as has been heretofore attached to the notes of the United States Bank and branches.

That the natural and ascertained course of trade, circulation, and exchange connected with the interests of banking institutions, will ultimately produce this result in relation to the notes of the principal State banks, there is every reason to anticipate; but their employment in the business of the Government, by awakening them to their capacities and interests, is calculated to hasten the consummation of so desirable an event.

It was a matter of no small moment to encourage and hasten the State banks in maturing their system of circulation and exchange, so that, at the termination of the charter of the Bank of the United States, the trade of the country might not encounter at the same time the loss of a general currency, and the entire breaking up of the domestic exchanges, a partial interruption of which by that bank is now producing such serious inconvenience. By the latest returns of the banks employed by the Government, it appears that they are already rapidly taking the place of the Bank of the United States in the exchange operations

Upon all the points hitherto considered, there is room for a difference of opinion as to the time when the public deposites should have been shifted to the State banks.

It is evident that it would have required one, two, or years, to realize the result which the public good required should be brought about before the termination of the bank's charter; but, whether the greatest or least of those periods, men may differ according to their views of their several operations. But there was another consideration connected with the public good, which, in the opinion of the committee, made it the imperative duty of the Secretary to act without delay. Without waiting for the final decision of the Secretary, the Bank of the United States, early in August last, although then in possession of specie to an amount exceeding ten millions of dollars, and receiving a rapid accession to the public deposites, commenced a system of severe curtailment, and, before the end of that month, took large sums in specie from the State banks. Before the 1st of October, there was a pressure upon the money market, and serious apprehensions for the future. The board hoarded up the deposites it received, and, at the same time, made a rapid curtailment of its loans. The Secretary has accurately set forth the accession of public deposites and the curtailment of loans during the months of August and September; the former amounting to $4,066,146 21, and the latter to $2,268,504 11; showing the whole amount abstracted from the use of the mercantile community, chiefly in the commercial cities, during these two months, to have been no less than $6,334,650 32. In consequence of the change in the tariff, which threw into the latter part of the last year the payment of two sets of duties, the old credit and the new cash duties, the public deposites were accumulating in the Atlantic cities with unprecedented rapidity, and it was apparent that the business of the cities could not long bear the double drain of bank calls and public revenue, without some return. As the bank had commenced this course in anticipation of a removal of the deposites, it could not be expected to change it until all idea of that measure should be abandoned. Had it been postponed until the 1st of January, it is not to be imagined that the bank would have relaxed its rigid policy upon any other consideration than a disposition in the Executive to abandon the measure, or in the Legislature to overrule him. It cannot be doubted that the Government would have been forced from its position, or that a scene of ruin and distress would have been produced by the unfeeling cupidity of the bank, and its determination to force a recharter.

If, under the circumstances, the Secretary of the Treasury had delayed the execution of his order for the change of the deposites to the 1st of December or January, he would, in the opinion of the committee, have been culpably regardless of the great public interests intrusted to his superintendence. But, independent of these considerations, it was the undoubted duty of the Secretary of the Treasury to order and direct the transfer of the deposites, whenever, in his opinion, it was required by the public interests. It is proper to observe, that, in expressing the opinion that it is the duty of the Secretary to change the place of deposite whenever the public interest or convenience requires it, the committee have no reference to interests which are not immediately connected with the financial concerns of the country, or the conduct of the bank as the fiscal agent of the Government. Beyond these limits the Secretary of the Treasury does not, and has not, claimed the right to interfere. The reasons upon which he appears to have acted are fiscal merely, and are confined entirely to the condition in which the Government and people would be placed by the state of the currency on the termination of the charter of the bank, and to the misconduct of the bank in its character of fiscal agent of the Government. He does not claim for himself, nor do the committee claim for him, the right to regulate the currency, nor to influence, by his power over the deposites, any political movements affecting either our internal concerns or foreign relations; but it is unquestionably his duty to look forward to the condition in which the currency will in a short time be placed, by the existing laws, when the charter of the bank expires; and it is clearly his duty to examine also into the conduct of the agent which has been placed by law under his supervision, and to inquire whether its money or corporate powers are used in good faith, for the purposes for which they were given. As the presiding officer of the Treasury Department, these subjects were legally under his supervision, and came directly within the range of his official duties. In acting upon these reasons, it is not the theory of our system, nor has it been the practice, to consult the legislative power in relation to acts which are intrusted to the discretion of the Executive; and to ask the sanction of Congress beforehand to acts which a sense of duty requires him to perform, would be to shrink from his constitutional responsibility, and throw it upon another department of the Government. With the removal of the deposites, and the reasons for it, Congress, according to the charter of the bank, have clearly no concern, even if they be in session, when, in the opinion of the Secretary of the Treasury, a removal becomes necessary or proper, until the act be done, and the reasons be reported to them.

The committee come next to examine such of the Secretary's reasons for the removal of the deposites as relate to the conduct of the bank.

The United States are the owners of seven millions of the capital stock of the bank, and, by the charter, are entitled to be represented at the board by five directors. The charter provides that "not less than seven directors shall constitute a board for the transaction of business."

Although the charter of the bank declares, in express terms, that it shall require the attendance of seven members of the board of directors to constitute a quorum for doing business, the Government directors state, and the fact also appears from the evidence accompanying the report of the committee of investigation in 1832, and that of the Committee of Ways and Means at the last session, that, for some time past, all the most important

business of the board has been done by committees of less than seven, selected by the president, of which he is *ex officio* a member; that these committees seldom report, and many of their most important transactions are secret, and remain, for a long time, unknown to the board.

This delegation of power to committees of the bank, the committee consider to be a direct and palpable violation of the charter of the bank. From all these committees, the Government directors, who are appointed to represent the stock, and watch over the interest of the United States in the bank, state in their memorial that they are entirely excluded. They state that, at the commencement of the last year, not one of their number was placed on any one of these committees; and although, at a subsequent day, two of them were assigned to stations on committees, they were again, in a short time, excluded from them altogether. Thus were they cut off from all participation in the most important business of the bank, and know nothing of what is done, except by accident or results. They state that all important negotiations are carried on by the committee of exchange, who grant discounts to printers, politicians, and others, almost without limit, often upon securities wholly inadmissible, according to the rules of the board—on extraordinary terms, and for unusual times. They state that, in one instance, when they discovered that certain debtors had been permitted largely to overdraw, and that their paper remained unprotested when due, and unpaid, they procured the appointment of a committee to investigate the account, but, before that committee could act, the committee of exchange, in violation of the rules of the bank, discounted to the same men certain notes and drafts (some of which on security of the most unusual kind) sufficient to pay the overdrafts, and take up the unprotested paper, although they were then, many times, protested on other paper; and the board, to consummate the transaction, rescinded the order under which the select committee was appointed, three days after it was adopted.

To conform the practice of the bank to the charter, the Government directors state that they proposed to restore the business of discounts to the board of directors, but this was overruled. To enable them to participate in some degree in the business of the bank, they proposed that the members of the whole board should be selected in rotation to form the committees, in conformity with former practice, and an unrescinded rule; but this also was refused. Finally, instead of reforming the practices of the bank, so as to make them conform to the charter and the rules, the majority of the board of directors changed the rules, and made them conform to the practices. Thus, rules made by themselves are taken as authority for disregarding the restrictions of the charter, and of the regulations prescribed by the stockholders; and from the statement of these directors, it appears that almost all the business of the bank is done by committees of three or five, to which the president is attached *ex officio*. The board of directors remain ignorant of the movement of the corporation which has been put under their management; and by an entire exclusion of the Government directors from the committees, they are rendered useless for all the purposes which induced their being placed in the direction. Under such management, could the interest of the Government be considered secure in their hands? The committee think not; and that this, with other abuses connected with its management, which will be noticed in the subsequent part of this report, was a sufficient reason to justify the Secretary in the removal of the deposites.

The conduct of the bank in 1832, in secretly interfering, through the agency of its president, and one of its secret committees, with the policy of the Government, whereby they sought, without the knowledge or consent of the Government, to postpone the payment of a large portion of the public debt denominated the three per cent. stocks, for a long period beyond the time fixed by the Government for its reimbursement, was, in the opinion of the committee, not only without warrant of law, but highly reprehensible. The conduct of the bank, in this transaction, was fully examined by a committee of the House at the last session of Congress, and resulted in a report from the majority, and a counter report from the minority of that committee. To these reports, hereto appended, the committee refer for all the facts connected with this illegal and unwarrantable act on the part of the bank. In neither of these reports is the conduct of the bank approved. In the report of the majority it is admitted that "it is due, however, to the Government to express the opinion that, in the arrangement made by the agent in England for the *purchase of the three per cent. stock, and the detention of the certificates*, (which measures were subsequently disclaimed by the bank,) the institution *exceeded its legitimate authority, and had no warrant in the correspondence of the Secretary of the Treasury.*" The minority of that committee, in their report, present all the facts in detail, derived from official correspondence and documents, and from the personal examination on oath of a part of the directors of the bank. Referring to these official reports of a former committee of the House, the committee deem it unnecessary to do more than to call the attention of the House to them as developing all the facts and circumstances connected with this transaction.

But it has been urged that the conduct of the bank in regard to the three per cent. stocks should have constituted no part of the reasons which should have influenced the Secretary of the Treasury in the removal of the deposites, because a majority of the House of Representatives had at the last session expressed an opinion, by the adoption of a resolution, that the deposites may be "safely continued in the Bank of the United States." To determine what consideration ought to be given to such an expression of the opinion of the House, it is necessary to look to the circumstances under which it was given. By the journals, it appears that the committee reported to the House on the 1st of March, and on the next day (the 2d March) the minority made a further supplemental report. The resolution in question was adopted on the 2d of March, being the last day but one of the session. The reports of the majority and minority of the committee were very long, and were accompanied by a mass of testimony, upon which they were based, and which it had occupied the committee many weeks to collect. The reports had not been printed, and could not have been examined or read by any member of the House except the committee themselves.

The House by this vote did not approve the conduct of the bank in regard to the three per cents. They expressed no opinion that other causes than the insecurity of the public deposites in the bank would or would not be sufficient to justify the Secretary in removing them. These points were not presented for their consideration or decision. The vote, in fact, amounted to nothing more than a simple expression of the opinion of a majority of the House, that as the deposites had been heretofore kept in the bank, for aught that appeared, (the reports of the committee not having been printed or examined by the House,) they might be safely continued there. This expression of opinion, given under the circumstances stated, ought not, in the opinion of the committee, to have restrained the Secretary from the performance of his duty, if, in his opinion, the bank had become faithless to its trust, or the public interests made it necessary for him to act.

The next reason assigned by the Secretary for the removal of the deposites, is the unjust and unconscientious

demand on the part of the bank for damages to the amount of $158,842 77, upon the protested bill drawn by the United States on the French Government. A bare statement of the facts connected with this transaction will show the true character of this demand on the part of the bank. The bank is the fiscal agent of the Government, and, during the whole period of its existence, has held on deposite very large amounts of the public money, which it has used (without the payment of interest to the Government) in loans to the community, and has been thus enabled largely to increase its profits. From an official statement appended to this report, it appears that the average amount of deposite of the public money in the Bank of the United States and its offices for each month, from the year 1818 to the year 1833, both inclusive, (being a period of sixteen years,) was $6,717,253 67. The annual interest accruing to the bank upon this amount of public deposites, at six per cent. per annum, would be $403,035 22; and for a period of sixteen years, would be $6,448,563 52. During the month of February, 1833, the Government were desirous to have remitted from Paris to the United States the amount of the first instalment due to the United States from France, under the French treaty of the 4th of July, 1831. For the purpose of effecting the remittance in the most convenient and least expensive form, the Government of the United States drew, on the 7th of February, 1833, a bill on the French Government for $903,565 89, and sold the bill to the Bank of the United States. The bill was paid for by the bank, not by cash advanced and paid out of bank, but by simply entering the amount to the credit of the Treasurer on the books of the bank, and thus increasing, by that amount, the public deposite in the bank—the bank continuing in the possession and use of the money as before the purchase, with this difference only, that the amount paid for the bill was subject, with the other public moneys on deposite, to be drawn for by the Government, as the public service might require. The bill was sold by the bank in London, and forwarded by the purchaser to Paris for collection, where it was protested, because the French Chambers had failed to make provision for its payment; and was afterwards taken up, for the honor of the bank, by its agent. The Government immediately paid back to the bank the principal of the bill; but the Secretary of the Treasury declined paying the damages which the bank claimed. In the monthly statement from the bank of the 3d of June following, and in all the monthly statements since that time, (in each of which is contained, amongst other things, the bank's account with the Treasury,) the following item is charged by the bank, to wit: "Due by the United States for protested bill of exchange on France, $158,842 77." What makes this demand the more unconscientious, is, that, during the whole period, from the 7th of February, (the day the bill was drawn,) until it was repaid to the bank, the public deposites in bank, and which it held and used without interest, greatly exceeded the amount of the bill.

The bank then did not, in fact, suffer any damages or losses, other than the interest, cost of protest, and re-exchange, which the Government promptly, and without hesitation, avowed its willingness to repay, together with the principal of the bill. But the bank claims more than this: it claims $158,842 77 as damages, not on the ground that any damages were in fact sustained, but upon a technical claim of a legal right to damages. Under such circumstances, the committee consider it to have been the duty of the Secretary of the Treasury not only to decline making the payment, but to discontinue the fiscal agency of an institution capable of asserting so unjust a demand, and seeking to enrich itself, at the loss of its principal. Here was a bank which, for upwards of sixteen years, had had the use of an average deposite of public money of near seven millions of dollars, without the payment of interest; deriving a profit from the use of the public money, during that period, of upwards of six millions; and at the very moment when it has in use millions of the public money, is taking advantage of the disappointment of the Government which employs it, and that disappointment, too, growing out of an unforeseen contingency, against which the Government could not guard, and seeking, upon what it is pleased to regard as the strict law of the case, without even color of justice, to make the Government, in whose employ it is, pay in damages the large amount already stated. No prudent individual who had any regard to his own interests or rights, would continue an agent who would manifest such an utter disregard of his interests. An individual would have taken his business out of the hands of such an agent. The Secretary of the Treasury, as the only authorized agent of the Government competent to do so, has done nothing more, by the removal of the deposites, than discontinue the fiscal agency of the Bank of the United States.

In the view which they have here presented, the committee have proceeded upon the supposition that, by the *strict law*, the might demand the damages in question. If that were the case, the demand would be most unconscientious and unjust.

The committee do not, however, concede that the bank has even a *legal right* to the damages claimed. In general, the drawer of a foreign bill returned protested is liable for the amount on the face of the bill, for interest, for costs of protest, for re-exchange, and for the reasonable expenses which have been incurred by the dishonor of the bill; and, according to the general usages which regulate foreign bills of exchange, he is liable for nothing more. There is no general commercial usage which gives damages of fifteen per cent., or at any other rate, on the return of a protested foreign bill of exchange. Damages of that description, whenever they are allowed against the drawer, are either given by statute, or depend upon the established local usages of particular places, and not upon the general usages of trade. In the United States, the amount of damages recoverable upon a foreign bill returned protested, varies according to the local usages or statutory provisions of the different States respectively. In Massachusetts, the damages are ten per cent., in addition to interest and costs of protest; in Pennsylvania, the damages are twenty per cent. on bills drawn on Europe and returned protested; in Maryland, fifteen per cent.; the amount of damages in the respective States being regulated by statute. There is no general usage pervading all the States which can regulate the amount of damages. This bill was drawn and sold to the bank at the Treasury, in the District of Columbia, and in that portion of the District which was, before the cession to the United States, a part of the State of Maryland.

The right of the bank to recover the damages claimed, must depend upon the laws of Maryland still in force in this District, Congress never having passed any law on the subject since the cession of the territory, and the exclusive jurisdiction over it to the United States. The only statute of the State of Maryland in force in that part of the District formerly held by Maryland, is an act passed in 1785, chapter 38, section 1, by which it is provided "that, upon all bills of exchange hereafter drawn in this State, on any *person*, *corporation*, *company*, or *society*, in any foreign country, and regularly protested, the owner or holder of such bill, or the *person* or *persons*, *company*, *society*, or *corporation*, entitled to the same, shall have a right to receive and recover so much current money as will purchase a good bill of exchange of the same time of payment, and upon the same place, at the current exchange of such bills, and also fifteen per cent. damages upon the value of the principal sum mentioned in such bill, and costs of protest, together with a legal interest upon the value of the principal sum mentioned in such

bill, from the time of protest until the principal and damages are paid and satisfied." The account rendered by the bank (see letter of cashier of the 13th of May, 1833, hereto annexed) appears to have been made out according to the provisions of this act, and the question is whether this bill is embraced by the act of 1785. The committee are of opinion that a bill of exchange drawn by the *United States* is not embraced by this act.

The State is never construed to be included in the general provisions of a statute, unless it is expressly named, or the language of the law or the nature of its provisions plainly imply that its enactments were designed to bind the State as well as individuals. A bill of exchange drawn by the State would not have been embraced by the act of 1785, already referred to, because the State is not named in the act, and the whole scope and language of the law show that its object was to provide for the dealings of *individuals, corporations, companies,* and *societies,* and not to regulate the action of the Government by which it was enacted. The large damages mentioned in the law are evidently intended for the benefit and convenience of commerce, and to prevent persons from drawing bills on foreign countries, where the drawer had reason to believe they would not be honored.

The reason could not apply to the State; and there can be no ground to suppose that the State, in passing this law, intended to inflict upon herself a penalty, if a bill drawn by her should be unexpectedly returned protested. If a bill then, drawn by the State of Maryland on a foreign country, and protested, would not have entitled the holder to the fifteen per cent. damages against the State under this law, neither can those damages be claimed against the United States, who now stand in the place of Maryland, in that part of the District of Columbia where this bill was drawn.

But this bill is not embraced by this law, because a bill drawn by an individual on a *foreign Government* would not be included by the terms of the law. The language of the law confines its operation to bills drawn on "*any person, corporation, company, or society, in any foreign country,*" and these words cannot, by any fair rule of interpretation, be construed to mean *a foreign nation,* or to embrace a bill drawn on *a foreign Government.*

Neither the drawer nor drawee then, in this case, seem to be embraced within the purview of this law, but if they were, yet this transaction does not seem to be one of the description for which it intended to provide.

A bill of exchange, as known in commerce, is of itself a sufficient authority to the drawee to pay the money, and a proper endorsement on it transfers the right to the endorsee; and the bill and its endorsements do not require the aid of any other instrument to give them force and authority. The endorsement of the bill by the payee, in blank, is of itself sufficient to warrant the payment to the holder. The bill in question is not an instrument of this description; standing by itself, it was of no value, and gave no right to the payee, or the holder to whom he might endorse it, to receive the money. It was deemed necessary by the parties to this transaction that there should be other and higher authority, in order to enable the bank to receive the money: and this authority accompanied the bill. This authority was executed by the President of the United States on the same day that the bill was drawn by the Secretary of the Treasury, under the seal of the United States, and countersigned by the Secretary of State, whereby the bill was recognised, and the cashier of the bank, (who was the payee,) or his assignee of the bill, was authorized to receive the money, and to give an acquittance to the French Government; and the bill, sustained by this authority, was sold to the bank at the Treasury, and the proceeds placed to the credit of the United States on their books. The act of the President, under the seal of the United States which accompanied the bill, was the only instrument which conferred on the bank the right to receive the money, and the only instrument which enabled them to assign their right to receive it. The Government and the bank both acted with a full knowledge that the bill itself would be unavailing to accomplish the object in view; and the proper authority in another shape, and by another instrument, was executed for that purpose. This was a transaction between Governments; and the authority given by the Government of the United States to the bank to receive the money from the French Government, cannot be regarded in the commercial sense as an ordinary bill of exchange.

By the treaty the money was to be paid by the French Government at Paris "into the hands of such person or persons as shall be authorized by the Government of the United States to receive it." In order, therefore, to obtain the money, it was necessary that a person should present himself at Paris, with the usual testimonials from the Government of the United States, of his authority to receive it. And the evidence of his authority, according to the laws which regulate the intercourse between nations, must be furnished by the President of the United States, through the department charged with our foreign relations. This was done in the power executed by the President before referred to. It was this power, and not the bill, which authorized the demand upon the French Government for payment. The bill, without this power, would have been insufficient; but the power, without the bill, would have been sufficient. If the bill had been presented alone, the French Government might have refused to pay, without any violation of its engagements. It was necessary that the person demanding the money from the French Government should have authority, accompanied with the customary testimonials in the intercourse between nations, to receive it. This authority the instrument executed by the President gave, but none such was conferred by the bill alone. In truth, the bill of exchange and the endorsement contributed in no degree to the authority of the holder to demand or receive the money. His right to demand depended upon the former power executed by the President; and the bank, or its assignee of the bill, became entitled to demand it by virtue of this power, and not by virtue of the bill or the endorsement on it. The bill itself, and the endorsement on it, did nothing more than designate the person whom the Government of the United States, by the instrument executed by the President according to the treaty, had authorized to receive it. The Government and the bank show, from the instruments executed, that neither of them regarded the bill of the Secretary of the Treasury as sufficient to authorize the bank or its endorsee to receive the money; for the bill standing alone had no authentication which would entitle it to be regarded by the French Government as sufficient evidence of the authority of the holder to receive the money. The question then is, did the act of Maryland of 1785 (under which these damages are claimed) intend to give fifteen per centum damages on an instrument in the form of a bill of exchange which the parties to it knew had none of its substance and qualities, and upon the authority of which the payee himself did not rely. Or did the act mean to give damages on those instruments only which are recognised and known in the commercial world as bills of exchange, and possessing all the qualities of such instruments? The act obviously alludes to the instruments known and understood in commerce, when the bill itself, and the endorsements on it, are sufficient of themselves to convey the right to the holder, and not to instruments in the form of bills, which give no authority, and are merely useful in designating the person on whom another instrument has devolved the power to receive the money. If the power had been given by the President to the cashier of the bank, or his assignee, of that instru-

ment, as the person authorized to receive the amount due the United States from France, and the bill had been endorsed to different persons, it is very clear that the assignee of the instrument executed by the President, and not the assignee of the bill, would have been entitled to demand the money. The bill of the Secretary was therefore merely one of the forms in which, for the sake of convenience, the Government gave its authority to the bank to receive the money; and it is evident, from the papers executed, that the bank, as well as the Government, so understood it.

The parties to the bill in question, and the bill itself, is not therefore, in the opinion of the committee, such an instrument as the act of Maryland of 1785 contemplated, and that the bank is not entitled, as a *mere strict legal right*, (independent of the manifest injustice of the demand,) to claim the fifteen per cent. damages by virtue of that law. If an instrument in the shape of a bill of exchange forming a part of such a transaction as this between two Governments is not to be regarded as the bill of exchange known in the usage of trade, then the liabilities on bills of exchange will not apply to it by force of the law which regulates contracts among private persons. The Government is ready fully to indemnify the bank against loss in this transaction, and the bank cannot, either in law or justice, demand more. The committee think the bank had forfeited all claims to be any longer trusted with the keeping of the public moneys, and that the Secretary would have failed to perform his duty had he permitted the public moneys longer to remain with the bank.

In his annual message of December, 1829, the President of the United States expressed his doubts of the constitutionality and expediency of the Bank of the United States. This part of the message was referred to the Committee on Finance in the Senate, and to the Committee of Ways and Means in the House of Representatives, both of which made reports in favor of the bank, which were ordered to be printed by Congress. It appears that the bank, not content with the circulation of these imposing documents through extra copies printed at the public expense, through the newspapers, and all the usual channels of communication to the people, applied its corporate funds, and exerted its corporate power, to multiply and circulate them through pamphlets and extra newspapers into every part of the Union.

In November, 1830, an article on Banks and Currency, exhibiting great research and much talent, appeared in the American Quarterly Review, which was by the president of the bank submitted to the board of directors, with a suggestion as to the "expediency of making the views of the author more extensively known to the public, than they can through the means of the subscription lists." The board therefore adopted the following resolution, viz. "*Resolved*, That the president be authorized to take such measures in regard to the circulation of the contents of an article on Banks and Currency, published in the American Quarterly Review, either in whole or in part, as he may deem most for the interests of the bank." Here was no limit to the president's discretion, or the amount which he was authorized to expend. His power was very extensively exerted.

In his annual message of December, 1830, the President reiterated the opinions previously expressed by him in relation to the Bank of the United States. The subject was not agitated in Congress at that session, and that body adjourned on the 3d of March, 1831. The subsequent session of Congress was necessarily to be the long session immediately preceding the presidential election. On the 11th of March, 1831, a resolution was adopted by the bank, as reported to the President of the United States by the Government directors, authorizing the president of the bank to "cause to be prepared and circulated such documents and papers as may communicate to the people information in regard to the nature and operations of the bank." By this resolution the president was authorized not to cause specific papers to be printed and circulated as before, but power was conferred upon him to hire writers, for the purpose of preparing documents and papers without designation as to their character or numbers, to employ printers to print them, and carriers to distribute them; neither was there any restriction as to the amount of funds which he was authorized to emply in carrying into effect this new system for disseminating information among the people. A short time after the passage of this resolution conferring upon the president of the bank such extraordinary and unusual power over the funds of the bank, a negotiation commenced (as appears by the evidence accompanying the report of the investigating committee in 1832) in relation to a press in New York, in the progress of which the president of the bank, on the 26th day of March, 1831, advanced $15,000, which was not entered on the books of the bank as a loan until January 2, 1832. The paper which had before that time been decidedly opposed to the bank, immediately became its advocate, and in a few months the notes discounted for its benefit amounted to $52,975, and at periods of from six months to five years, the last of which did not fall due until the year 1836, and several months after the bank charter would expire. These were credits altogether unusual in the regular business of banks. About the same period large sums were advanced to editors of political papers in other parts of the Union. During this period a most unprecedented extension of loans was granted by the bank. For some years its loans had not varied much in the aggregate from forty millions of dollars. In October, 1830, they amounted to $40,527,523. From that time they began rapidly to extend, and on the 1st of May, 1832, amounted to $70,428,007. In eighteen months the extension was near thirty millions, being at the rate of about two millions per month.

Whilst these accommodations to editors, and this great extension of its loans, were in progress, the bank, in December, 1831, applied for a renewal of its charter, which then had upwards of four years to run. A bill to renew it passed both Houses of Congress, was presented to the President of the United States on the 4th of July, 1832, and received his veto.

The President was then a candidate for re-election, and that question was to be settled in November of that year. The power given to the president of the bank, by the resolution of the 11th March, 1831, was during that and the succeeding year exerted with great industry. The fact of the existence of this resolution, and of the expenditures under it, came to the knowledge of the President for the first time, through the report of the Government directors, during the last summer. From that report it appears that for the last half of 1829 those expenditures were $3,765 94, giving as an average for the year $7,531 88. In 1830, they increased to $14,081 47, about $7,000 of which were "for printing and distributing the report of the Committee of Ways and Means, and Mr. Gallatin's pamphlet." In 1831, they increased to $43,204 79, and in 1832 they were $38,667 88; of which $26,543 72 were incurred in the last half year, including the presidential election, so that these expenditures continued to increase from 1829 up to the presidential election.

So far as communicated by the Government directors, the documents and papers printed and distributed with this money appear to have been chiefly reports of committees in Congress, and speeches of members friendly to the bank, and generally opposed to the President; extra newspapers containing similar matter, and other electioneering matter calculated to defeat the election of the President; reviews of speeches, and of the veto, prepared with the same object; addresses to State Legislatures, and editorial articles in favor of the bank.

It is further stated by the Government directors, that for about $24,000 of these expenditures no vouchers whatsoever had been rendered. The several sums were paid on the orders of the president of the bank, referring to the resolution of 11th March, 1831, as his authority to make the expenditure, but not stating the persons to whom they were paid, nor the purposes for which they were expended. Nor does it appear that the board of directors, or any committee of the board, or any other person, except the president of the bank, and the parties receiving the money, passed upon the claims, or know for what object this large expenditure was incurred. As the Government is the owner of one-fifth of the capital stock of the bank, one-fifth of this unwarrantable expenditure was the money of the people.

In this narrative of facts are found ample reasons to justify the Secretary in the removal of the deposites. It seems impossible to resist the conviction, that from 1830 down to November, 1832, the bank was managed with reference to the presidential election; that all its mighty means and power were exerted to influence and control the people in the exercise of their right of suffrage, and secure a recharter, by filling Congress and the executive offices with its funds and supporters. It was said by a wise man of antiquity that the "borrower is the servant of the lender;" and with equal truth it has been recently asserted that "he who controls a bank controls the debtors of that bank." No adequate motive can be conceived for the unprecedented extension of the business of the bank from forty to seventy millions of dollars in eighteen months, but a determination to make as many debtors to the bank as possible, and thus bring multitudes of men under its control. Through the fear of being pressed too severely for repayment, it might have been reasonably expected that most of these debtors, and the friends they could influence, would support the bank in its struggle for a recharter.

While this process of extension was going on, numerous editors of political papers appear to have received large sums of the bank's money, and were thus prepared to advocate measures or men, as the ultimate interests or views of that institution, or its managers, might indicate or require. Contemporaneously the funds of the bank were put at the disposition of its president, to be used without limit, and their expenditure sanctioned without vouchers, as a means of accomplishing the great design. Connected with these operations was the conduct of the bank, during the same period, in the three per cent. transaction, examined by a committee of Congress last year, whereby the bank attempted to baffle the Government in its efforts to pay the public debt, and secretly sought the aid of foreign bankers to increase its means to control the Government. In addition to its faithlessness to the Government, the bank seems to have formed a foreign alliance, and procured foreign aid in its war with the President of the people. The three per cent. transaction was condemned by the Committee of Ways and Means last year, as already stated, and the pretences on which it sought to be justified, declared to be unfounded. Of itself it would have justified a removal of the deposites, but it seems to have been but an incident in a grand scheme to make our whole people, and their Government, subservient to this moneyed incorporation—a scheme which, if successful, would have left to us but the name of a republic.

But the bank was not content to submit to its fate, and execute its duties as a faithful agent of the Government, when, with all its debtors, its presses, its advocates, its foreign aid, hired writers, and extra documents, it received the decisive rebuke of the American people in the result of the presidential election. During the last summer, one of the Government directors, by being placed on the dividend committee, a temporary body appointed every six months to ascertain what dividend shall be declared, discovered, in the expense account of the bank, some of those items for printing which have since been reported. On consulting his colleagues, the other Government directors, they deemed it their duty to inspect that account. Having done so, and found that it gave no definite information relative to large portions of the expenditure, they brought the subject before the board, for the purpose of obtaining more certain information, and rescinding the resolutions under which it had been incurred. Not only did the board refuse to cause the account to be stated with such precision that it could be understood, and to rescind the resolutions of the 30th of November, 1830, and March 11, 1831, but, instead thereof, resolved as follows, viz. "That the board have confidence in the wisdom and integrity of the President, and in the propriety of the resolutions of 30th of November, 1830, and 11th March, 1831, and entertain a full conviction of the necessity of renewed attention to the object of those resolutions, and that the President be authorized and requested to continue his exertions for the promotion of that object." Thus was the formal sanction of the board given to the acts of their President under their former resolutions; and he was stimulated to renewed vigilance in employing writers and presses to influence the public mind. Thus expressly did they approve of the expenditure of the $24,000, without vouchers, and promise to their President future immunity and irresponsibily for the use of any larger sum.

Corporations have no powers but such as are granted in their charters, and those necessarily incidental. As an incident, the Bank of the United States has an unquestionable right to procure and pay for bank notes, the necessary blanks, and such other papers as are requisite in the transaction of all business which it may be expressly authorized to perform by its charter. When it proceeds further, and prints documents and speeches, handbills or newspapers, it transcends the power granted to it. The Bank of the United States was not created "to communicate to the people information in regard to 'its own' nature and operations," or the acts of their chosen rulers. The people supposed they understood its "nature and operation" before they gave it existence, and they tolerated its establishment as a servant, and not as a teacher. Few would have been found to advocate its creation if it had been a provision of its charter that it might apply its corporate funds to the printing and circulation of such congressional reports, speeches, and other political documents, as its managers might deem useful in conciliating public opinion to its management, and even to the hiring of writers to advocate its interests, and circulating denunciations against the constituted authorities for their official acts. Certainly no friend or enemy of the bank, at that time, conceived that the bank had a right to employ its corporate funds for the purpose of teaching the people how to estimate the acts of their Representatives in either the Executive or Legislative branches of the Government. The idea that such a right was veiled under the charter, or any of its provisions, would undoubtedly have been fatal to its passage. Is it less alarming that it has now usurped the right?

The conduct of the bank in this respect has been attempted to be justified on the ground of self-defence. The error on this point consists in considering the bank and its managers as identical. The bank has not been attacked. The President of the United States, in his messages to Congress, has expressed his opinion that the charter ought not to be renewed, and has put his constitutional veto on a bill passed by Congress for that purpose. But this was no attack upon the corporation, for to a renewal of its charter it had no legal right. None of the chartered rights of the bank have been wrested from it; no judicial process has been instituted to vacate

its charter; when such attacks are made, no man will complain of the bank for defending itself in the courts by the employment of counsel, and paying their fees out of the corporate funds; but the president and directors of the bank have no right to use the funds of the institution in making publications vindicatory of their own management, or tending to show that the President of the United States has been guilty of usurpation of power or dereliction of duty in refusing his assent to a renewal of their charter. These were matters which belonged to the forum of the public, into the discussions of which the managers of the bank, in common with other citizens, had a right to enter, not in their corporate, but in their individual capacities, and at their own expense. The managers of the bank, if assailed for misconduct, may, like every other citizen or officer of the Government, defend themselves, but not by the use of the corporate funds or power. They may expend their own money without limit in employing writers and presses to defend them. What would be said of the President of the United States if he were to expend the money in the Treasury in printing congressional reports and speeches, hiring writers, employing editors, printers, and distributors, for the purpose of defending himself and the other executive officers against attacks made upon them from sources official and unofficial? If he were to request Congress to put the whole deposites of the Treasury at his disposition for such a purpose, how would it be received? If the Senate or House of Representatives were to employ their contingent fund in printing and circulating speeches of members, and articles prepared by hired writers, paid from the same fund, under pretence of defending the members or the House against the attacks daily made upon them, would it be tolerated by the American people?

The committee consider this delegation of unlimited and irresponsible power to the president of the bank over the whole funds of the institution, the most attrocious violation of the bank charter, and the most daring abuse of its power which has hitherto been disclosed. It is sufficiently alarming that the Government directors have been deprived of all participation in the principal business of the bank; that its most important discounts and other business are managed by committees selected by the president, who seldom report; that the restrictive provisions of the charter have been subverted by arbitrary rules, and responsibility to the Government, which owns a fifth part of its stock, in effect destroyed. But, in addition to all this, here is a discretionary power vested in the president of the bank alone, to be exercised without the responsibility of rendering specific accounts or vouchers, under which he may apply hundreds of thousands and millions to operate on public opinion, and, through the prostration of enemies and the advancement of friends, procure a new charter. In causing to be "prepared and circulated such documents and papers" as came within the scope of the authority vested in him, he may hire editors, and set up newspapers throughout the whole Union, and by the use of unlimited sums of money, without appropriation or accountability, he may distribute a patronage more potent than that of many Governments, because all wielded by the same hand to secure a single object. When the Government directors, as faithful sentinels over the public interests in the bank, communicated the fact that this power had not only been assumed by the bank, but that its managers were determined that it should be wielded with renewed energy, and for an indefinite period, the Secretary of the Treasury was fully justified, for this reason, if there had been no other, in severing its connexion with the Government, and, as far as he legitimately could, lessening its power.

It will be seen, by the views already taken by the committee, that, in their opinion, the deposites have been lawfully removed from the Bank of the United States, and the money now in the Treasury has been legally deposited in the State banks.

In these circumstances, it remains to be considered whether any, and, if any, what legislation is necessary in consequence of the change of deposites.

It is the opinion of the committee that the Bank of the United States ought not to be rechartered. The constitutional objections to it are in, their judgments, insuperable; and if its charter could be justified by the constitution, recent events have demonstrated that the continued existence of such a vast concentrated money power must prove dangerous to the freedom and purity of our institutions. And, after the great abuses of which it has been guilty, a recharter, under any modifications, would be offering the high legislative sanction and approbation of Congress to the various acts of misconduct detailed in this and former reports made to Congress. It is impossible that a corporation, which is proved to have used its money to corrupt the press, to influence elections, and control the Government, can ever be selected as the peculiar object of the favor and bounty of the Government. The bank ought not therefore to be rechartered on any terms; and as the charter ought not to be renewed, it is manifest that the deposites ought not to be restored to it; for, setting aside the various acts of misconduct, by which the present corporation has justly forfeited the public confidence, it is obvious that the restoration of the deposites to the present bank, to be removed again in two years, would produce nothing but the most serious evil and distress to the country, without any possible advantage. The restoration of the deposites and the recharter of the bank are, in the judgment of the committee, inseparably connected together, and neither can with any propriety be adopted without the other.

The question then arises, whether the State banks should be continued as the fiscal agents of the Government. The committee are satisfied that the State banks are fully competent to perform all the services which the General Government ought to require, in the collection and disbursement of the revenue, and to afford also all the facilities to the internal commerce and exchanges of the country which have been derived from the Bank of the United States.

The collection and disbursement of the revenue may be safely placed where the sages who framed the constitution left it. They did not deem a national bank essential either to the existence of the Government they were forming, or to the successful administration of its finances. The opinion has already been expressed, that the State banks are competent to perform all the duties which the Government or the public convenience may require; and there are many circumstances which strongly recommend them to a preference over the Bank of the United States. No one of them can exercise a general control over all the others, and expand or contract the whole currency of the country at its pleasure, to favor the private speculations of individuals, or to increase its own profits; and they can never combine together for political objects, nor hope to gain possession of the Government, and control its operations.

The State banks are now firmly interwoven with the institutions of the country. They are generally under the management of citizens as respectable, as trustworthy as any directors of the Bank of the United States. And it would be unjust, and contrary to the spirit of our institutions, for Congress to sustain a great moneyed power to overawe and oppress them, and bring ruin upon multitudes of our citizens, whenever cupidity or ambition shall tempt them to exercise their power. The stock of the Bank of the United States has fallen, for the most part, into the hands of the great capitalists of this and

foreign countries, who have but little sympathy for the sufferings of our people, when their own sordid or ambitious views make it their interest to inflict it.

If it should be urged as an objection to the State banks, that they cannot afford a general currency, the answer is obvious. If it were deemed necessary to create a paper currency, possessing equal credit with that of the present Bank of the United States, the object can be as well accomplished with the State banks as with the Bank of the United States. The provision which has made the latter current every where, is the clause in the charter which compels the Government to receive their notes in payment of all debts due to the public; and a similar provision in favor of the State banks which might be selected as the depositories of the moneys of the United States, would immediately make their notes equally current, and ensure for them equal confidence in any part of the United States; but the committee are not prepared to recommend the adoption of such a measure. They are convinced that all which public convenience requires in this respect will soon be accomplished by arrangements among the banks themselves; and that there ought to be no legislation of Congress for the purpose of establishing a currency of paper.

The main object of legislation should be to enlarge the basis of specie, on which the paper circulation of the State banks is to depend for support. And the committee are persuaded that, by the adoption of the State banks as the fiscal agents of the General Government, and a judicious course of legislation founded upon it, a sounder state of the currency than now exists would soon be attained, and the country rescued permanently from the danger of those sudden expansions and contractions of the paper currency which have been constantly succeeding each other since the Bank of the United States was established, and which have brought such severe and extensive evils upon the country. The aid and co-operation of the several States may be relied on to banish, gradually, the smaller notes, and introduce in their place silver and gold for ordinary domestic purposes, and the convenience of travel between distant places. Such a reform is strongly called for by sound policy, and the best interests of the country; and the accomplishment of an object so desirable may be mainly accelerated by laws passed by Congress, adjusting the standard of value of our coins, and regulating the deposites and collection of the revenue. If gold and silver were brought into common use, and the small notes banished from circulation, payments of small sums would probably be made in specie. The great object is not to diminish the amount of the ordinary circulating medium, but to give it a broader and firmer foundation on the precious metals.

With these views, the committee are of opinion that the State banks ought to be continued as the depositories of the moneys of the United States, and that measures ought forthwith to be taken to regulate, by law, the manner in which they shall be selected, and to ensure the safety of the public money.

According to the law, as it now stands, the duty of selecting the banks, and of prescribing the securities to be taken, is devolved upon the Secretary of the Treasury, under the supervision of the President. This power has been heretofore exercised by the head of the Treasury Department, and in a manner advantageous to the public; and it is not doubted, if the law should continue unchanged, that it may and will continue to be so exercised by the head of that Department; yet it is the opinion of the committee that discretionary power should never be given in any case to any officer of the Government, where it can be regulated and defined by law. They think that it would be more consistent with the principles of our Government for Congress to regulate, by law, the mode of selecting the fiscal agents, the securities proper to be taken, the duties they shall be required to perform, and the terms on which they shall be employed.

In accordance with these views, they accordingly report, for the consideration of the House, resolutions declaring that the Bank of the United States ought not to be rechartered, and that the State banks ought to continue to be employed as the fiscal agents of the Government, under such regulations as Congress shall prescribe.

Before they close this report, the committee consider it to be their duty to state that, in their judgment, a necessity exists for an immediate examination into the conduct of the Bank, and they proceed to state the grounds which make it absolutely necessary that a strict and rigorous scrutiny should be instituted. They think such an examination necessary, in reference to the security of the interests which the United States as a stockholder have in the bank, as well as to correct, as far as practicable, the abuses of which it has been guilty, and to prevent it from using its corporate power and money for purposes of corruption or oppression.

Numerous memorials have been referred to the committee, complaining of embarrassments in mercantile transactions; some attributing them to the removal of the deposites, and others chiefly to the subsequent conduct of the Bank of the United States. That serious embarrassments exist in many of the commercial cities, cannot be doubted, and it seems necessary clearly to ascertain the cause before an attempt be made to prescribe the remedy. The powers possessed by the committee are inadequate to that object, and they are unable to do more at present than to submit the facts which have come to their knowledge, with the course they seem to suggest. That the simple transfer of a given sum of money from one bank of deposite to another could have produced the commercial embarrassment complained of, is impossible. The public deposites have not been annihilated, nor have they been transported from the country; they are still in the country; and in the use of the community.

It is in vain that they look for the cause of embarrassment in the state of our markets, or the operations of trade; our agricultural productions and manufactures generally bear a good price; foreign exchange is at its lowest rate; the balance of trade is decidedly in our favor; and the precious metals are flowing in upon us from South America, Mexico, and Europe. None can doubt the power of the bank to create embarrassment whenever its managers deem it expedient. In four months, commencing with August last, and ending with November, it called in $9,707,245 of its loans. As the State banks could not commence extending until they began to receive the public deposites in October, and from that till December, they could not, in their extension, keep pace with the curtailments of the Bank of the United States. It is evident that such rapid curtailment by the Bank of the United States must have created some sensation in the commerce of the country; but it is easy for the Bank of the United States to produce universal embarrassment, without any aggregate curtailment of its accommodations. By calling in rapidly one month, letting out the next, and calling again during the third, while it loans out in one place what it curtails in another, and in this manner falls upon all the commercial cities in rotation, it may more effectually embarrass trade than by a steady curtailment. When the policy of the bank is unsteady and capricious, producing scarcity of money to-day, and an abundance to-morrow, to be succeeded by a greater dearth the next day, it is impossible for merchants to conduct business with safety, and prudent men will restrict or discontinue their operations. The bank has long enjoyed a large portion of the business of domestic exchange; and whenever it chooses to cut off the supply in any or all directions, embarrassment and difficulty naturally ensue.

There is much reason to suspect that the bank has

been managed for the last six months with a view to embarrass the community, as a means of operating on public opinion, and controlling the action of Government. In the proceedings of the bank in relation to domestic exchange, so far as known, are perceived indications of a disposition to use the power it possesses through that branch of its business, for the purpose of producing excitement and distress.

The Government directors inform us in their memorial that, on the 13th of August last, (two weeks before the Treasury agent returned from his mission to confer with the State banks, and five weeks before the determination of the Executive was announced,) the board of directors adopted a resolution, declaring "that the bills of exchange purchased at the bank, and all the offices except the five Western offices, shall not have more than ninety days to run; that the five Western offices be instructed to purchase no bills of exchange, except those payable in the Atlantic cities, not having more than ninety days to run, or those which may be received in payment of existing debts to the bank and the offices, and these not have more than four months to run."

The Government directors inform us that, on a subsequent day, a series of resolutions were adopted for reducing the business of the institution, and *authority given to the committee on the offices to modify them at pleasure;* and, although a strenuous effort was made to require them to report such measures as might be directed by them to the board, the proposition *was voted down.*

Thus, in direct violation of the charter, and in defiance of all prudence and propriety, was the whole power of this vast and powerful corporation to relieve or to oppress, vested in a committee who are not subject to the responsibility of even making reports to the board of directors. A few irresponsible men, issuing secret orders from their private chamber, possess more power to distress the American people than any department of their Government, or all departments, by an act short of a declaration of war. What the resolves and orders of this potent body have been, we have no means of knowing. The president of the bank, who is *ex officio* a member of the committee, and, undoubtedly, directs its operations, is also clothed with unlimited power to set the press in motion, for the purpose of promoting the views of the bank. For months, those presses which are known to have been sustained by enormous loans, and those which have received the most liberal allowances for printing, have been incessantly engaged in an effort to spread alarm and dismay throughout the land. It is impossible not to suspect that the secret management of the bank, and the use of its funds by its president, are in perfect concert with their dependent and devoted presses, all aiming to create a general panic, and produce the same result. That result is the restoration of the deposites, and its certain consequence, the recharter of the bank. If any thing was wanting to confirm these suspicions, the alleged refusal of this bank to co-operate with the State banks in their laudable efforts to relieve the existing pressure upon the community in the larger commercial cities, is sufficient to remove all doubts from the minds of the most incredulous.

It is due to the country that the source of the embarrassments which oppress a portion of its commerce shall be laid bare. Should they appear to spring solely from the management of the bank, wantonly and wickedly directed to produce them, it may become the duty of Congress to resort to all the means within their constitutional authority to check its career.

If it shall appear that the bank, by means of its money and the papers under its control, has wilfully and intentionally produced these embarrassments, and if its power has thus been abused, it cannot be endured that for two years longer it shall be suffered wantonly to excite alarms in the country, to direct a pressure first on one point, and then on another, enlarge in one place, and contract in another, for the purpose of continuing to the end of its existence the evils which there is too much reason to believe it has already inflicted on the community. If, upon examination, it shall be found that it has been guilty of such offences, its charter cannot be too soon terminated, and a *scire facias* would be imperatively demanded, to put an end to its machinations against the peace and interests of the people. The Government owns seven millions of its stock, equal to one-fifth of the whole amount. It is the duty of Congress to see that it be not used to oppress the people and subvert the principles of our Government. Of every hundred thousand dollars spent by the president of the bank, or distributed to advocates under the name of loans, and forever lost, twenty thousand dollars belonged to the people of the United States.

That their property may not be wasted; that the cause of their distress may be ascertained, and a remedy applied; and, above all, that their own funds, and the money and power of this corporation may not be employed to subvert the principles of their Government, by controlling their elections, the committee deem it necessary that there should be a thorough investigation into the alleged abuses and corruptions of that institution, and particularly into the details of its management for the last six months. To this end, they propose a resolution to invest a committee of the House with power to make such investigations.

1. *Resolved,* That the Bank of the United States ought not to be rechartered.

2. *Resolved,* That the public deposites ought not to be restored to the Bank of the United States.

3. *Resolved,* That the State banks ought to be continued as the places of deposite of the public moneys, and that it is expedient for Congress to make further provision by law, prescribing the mode of selection, the securities to be taken, and the manner and terms on which they are to be employed.

4. *Resolved,* That, the purpose of ascertaining, as far as practicable, the cause of the commercial embarrassment and distress complained of by numerous citizens of the United States, in sundry memorials which have been presented to Congress at the present session, and of inquiring whether the charter of the Bank of the United States has been violated, and also what corruptions and abuses have existed in its management; whether it has used its corporate power, or money, to control the press, to interfere in politics, or influence elections, and whether it has had any agency, through its management or money, in producing the existing pressure, a select committee be appointed to inspect the books and examine into the proceedings of the said bank, who shall report whether the provisions of the charter have been violated or not, and also what abuses, corruptions, or malpractices have existed in the management of said bank, and that the said committee be authorized to send for persons and papers, and to summon and examine witnesses on oath, and to examine into the affairs of the said bank and branches; and they are further authorized to visit the principal bank, or any of its branches, for the purpose of inspecting the books, correspondence, accounts, and other papers connected with its management or business; and that the said committee be required to report the result of such investigation, together with the evidence they may take, at as early a day as practicable.

House of Representatives, *March* 4, 1834.

The undersigned, minority of the Committee of Ways and Means, to which were referred the letter of the Secretary of the Treasury, communicating to the House his reasons for removing the deposites of the public money from the Bank of the United States, and several memorials upon the same subject, submit the following rea-

sons for not concurring in the report of the majority of that committee:

The removal of the public deposites from the Bank of the United States is an act upon which the judgment of the country has now irrevocably passed. The reasons have been investigated in both Houses of Congress, and by the public press, to such an extent that it may be fairly deemed impracticable to add any thing to the arguments by which they are either refuted or sustained; but being most thoroughly convinced that the act of removal was wholly indefensible, without color of probable cause, a violation of the bank charter, an inroad upon the property and security of the citizens, and upon the rights of the Legislative department, the undersigned deem it their duty to submit such a statement as will record their personal opinion upon the subject.

I. The power of removing the public deposites is granted or reserved by the 16th section of the bank charter, to be exercised by the Secretary of the Treasury, for reasons to be communicated to Congress. This power is not absolute or unconditional, in regard either to the bank or to the country. Absolute and unconditional power does not reside in any department of Government. Congress hold their own power under the condition of conforming to the principles of justice, as well as to the restraints or limitations contained or prescribed in the constitution. They cannot grant an absolute and unconditional power to any officer of Government for any purpose of Government. The broadest discretion they can give, must be subject to the implied condition of being exercised in conformity with the constitution, the laws, the rights of individuals, and the principles of natural justice. Above all, they cannot, in the absence of express declaration, be presumed to have given an unconditional power to an officer of Government to affect rights and privileges conferred or sanctioned by law.

Congress have not granted to the Secretary of the Treasury any power over the public deposites that is inconsistent with these principles. The grant or reservation of power in the 16.h section of the charter is qualified by the express provision that the reasons for its exercise shall be immediately reported to Congress, and the sufficiency of the reasons concerns all who may be affected by the act, that is to say, the bank, Congress, and the people especially, who are vitally interested in every act that invades a legal or constitutional right.

The charter is a contract between the stockholders of the bank and the United States, and all its clauses must receive such an interpretation as is consistent with the principles of contract. The United States contracted to allow to the bank the benefit of receiving and holding the public moneys, unless the Secretary of the Treasury should, at any time, see fit to order otherwise; in which case, he should immediately lay before Congress the reasons of such order and decision. "*In consideration of the exclusive privileges and benefits conferred by this act,*" the bank contracted to pay, and did pay, to the United States one million five hundred thousand dollars; and also engaged to perform, and has performed for seventeen years, important duties, in exoneration of the Treasury, at an expense of several hundred thousand dollars more. The custody of the public deposites is not only a benefit, but, next to the power of exclusive banking, it is the principal benefit conferred by the act. It is contrary to every sound rule of interpretation that has ever heretofore been applied to a contract, or to a law regulating a contract, that a power like the Secretary's, to suspend the enjoyment of a right, for reasons to be communicated forthwith to Congress, should be deemed an absolute and unconditional power as it regards the bank. The minority reject this doctrine as utterly irreconcilable with justice or with law, with reason, whether natural or technical, with the meaning of the charter, or with the faith of the nation.

Various suggestions are made to sustain the position that the exercise of the Secretary's power, whether for good reasons, or for no reasons at all, determines the right of the bank to the deposites, and leaves the nation free from all reproach of violated faith.

It is said that he is authorized to act, before he gives his reasons to Congress; and his act, therefore, has validity, whatever may be his reasons. The efficacy of his act to remove the deposites is not the question. Whether his reasons be good or bad, his order is, in the first instance, to be respected; but if he is bound to have good reasons, and his reasons have not been good, the subsequent communication of them will show that his act was unjust at the time; and if Congress do not rescind it, they will sanction the injustice. There are innumerable instances in which an order, right or wrong, must be respected when it is given; yet when it is subsequently shown to have been wrong, the injustice is declared, and the aggressor punished.

It is further said that the bank has paid nothing for the use of the deposites, and therefore has no right to them that may not be revoked at pleasure, and that the bonus and other expenditures in the public behalf have been paid by the bank for the privilege of exclusive banking, and for the benefit of having their notes received in all payments to the United States. If the deposites be a benefit, (and of this there can be no doubt,) the 20th section of the charter shows that the bonus was given for that benefit as much as for any other. The language of the section is general. The payment is "in consideration of the exclusive privileges and *benefits* conferred by the act," and this is one of them. Whether the receipt of the notes in public payments is really a benefit to the bank, has been much doubted. That it is a benefit at all comparable to that of having the deposites, cannot be maintained. The obligation of the United States to receive these notes was absolute and unlimited in the charter of the first bank, which did not pay any bonus at all; and in the present charter, for which a large bonus was paid, the engagement to receive them is subject to the pleasure of Congress. The great difference in benefit of the respective charters of the two banks is, that in the first there was no stipulation for the public deposites, and the bank paid nothing for its charter; whereas, in the present charter, the case is otherwise in both particulars.

Another suggestion to show that the power of the Secretary over the deposites is absolute and unconditional, is, that the power of Congress to repeal the guarantee of the notes is so. The difference between the cases is, that the Secretary must have reasons for his direction, as the 16th section expressly declares, whereas the 14th section, in regard to the notes, makes no such qualification of the powers of Congress.

It is again said that the power given to the Secretary by the 16th section is his old, or former power, which was absolute and unconditional as it regarded every depository with whom the public money was placed, and therefore the present power must be the same. If the power given by the 16th section is the old power, the House is possessed of the Secretary's opinion as to the extent of it. The language of the Secretary's letter is as follows: "The Treasury Department being intrusted with the administration of the finances of the country, it was always the duty of the Secretary, in the absence of any legislative provision on the subject, to take care that the public money was deposited *in safe keeping*, in the hands of faithful agents, and *in convenient places*, ready to be applied according to the wants of the Government. The law incorporating the bank has reserved to him, in the fullest extent, the power he before possessed. It does not confer upon him any new power, but reserves to him his former authority without any new limitation."

It is unnecessary to dispute the position that the power in the 16th section is the old power in this sense, for the power in the 16th section is not only admitted, but asserted to go to the very extent which the Secretary claims for the old power, and no further, namely, to the extent that the safety of the deposites, and their distribution in convenient places, require. Such a power is obviously neither absolute nor unconditional. But independent of this definition of his own power by the Secretary, it seems to have been overlooked by the committee that the present power is to be applied to divest a right, whereas the former power was exercised over the possession of depositories who had no right whatever. The control of the Treasury Department over the public moneys, until the charter of the present bank, was universally a question between the Treasury and Congress; it is now a question between the bank and Congress.

It is finally said that the power of the Secretary is absolute and unconditional, because Congress have given to him their whole power, reserving none whatever to themselves to touch the deposites until he shall have restored their power to them. This argument begs the question in dispute. The Secretary supposes himself to be an independent judge in this matter, whereas the minority suppose that he is merely the agent of Congress. His power in the premises is a part of their power intrusted to him as their representative. Though he may use it for sufficient reasons, Congress may use it also for the same reasons. The restraint upon the exercise of his power is imposed by the right of the bank, and this is all the restraint that is imposed upon the right of Congress. If the bank has no right, as the committee appear to assert, upon what ground can the right of Congress be denied? If the power reserved to the Secretary, by the 16th section, is neither more nor less than the old power, how is it possible to deny the right of Congress to control the deposites, under the charter, if Congress had any right to control them before the charter? It is worthy of deep reflection, that the argument put forward by the committee, to sustain the Secretary's reasoning, has carried them to the extent of asserting that Congress abandoned the public treasure to the Secretary and the bank beyond the possibility of recall.

Upon this head the minority state their opinion to the House, that the power of the Secretary over the deposites in the bank depends for its just exercise upon the existence of adequate causes; that the bank had a direct and immediate interest in them, and is entitled to an impartial decision upon them; that an unjust decision upon them will be a violation of the charter, and a stain upon the public faith; and that the Secretary's position, that his power is absolute and unconditional in regard to the bank, is an unwarrantable assumption of power, instead of a just interpretation of that which has been given.

II. In the execution of this power, the Secretary was the agent of Congress, and not of the President. He derived the power from Congress; he is to report his reasons for using it to Congress. The act of the Secretary in removing the deposites is neither actually, nor by construction, the act of the President, nor are the reasons of the President a satisfaction, either in effect or form, of the requisition on the Secretary to report his reasons. The exercise of this power affects the public treasure, which Congress directed to be placed in the Bank of the United States. That treasure is the treasure of the people, the custody and control of which belongs to the Legislature and to the agents of the Legislature. The custody of the Legislature is exclusive of the Executive department. The custody of the bank, as the agent of the Legislature, is equally exclusive. The power of the Secretary is, in like manner, exclusive. The Chief Executive Magistrate has no constitutional authority to raise revenue, or to take it into his official possession when raised, or to direct who shall possess it, or to interfere with a direction or authority in this behalf, proceeding from Congress, any more than he possesses authority to direct by whom the public money shall be used and consumed. The Secretary cannot be relieved from the duty of accounting to Congress by any order of the President; nor can the reasons of the President be imposed upon him as a guide, nor be offered to Congress as an excuse. The discretion which is given by the charter, is given to the Secretary alone. The order of removal must come directly from the Secretary; and if it came from the President alone, it would be null and void.

The power of the President to remove the Secretary of the Treasury is no reason for holding that the Secretary is under the direction of the President in the exercise of the discretion conferred by the charter The President may remove the Secretary whether he performs or does not perform his duty. The legal power to do it is as perfect in the one case as the other. The mere existence of the power does not consequently imply the right of direction or control. The constitutional duty of the President to see that the laws are faithfully executed, requires him to see that an officer to whom the law confides a discretion is permitted fairly to exercise it. A law which confers a discretion upon one officer, is violated, instead of being faithfully executed, by compelling him to submit to the discretion of another officer. If the President has in this matter, directly or indirectly, controlled the discretion of the Secretary, the law has not been faithfully executed, and his act has been a violation both of the law and of the constitution.

III. The only adequate cause for removing the public deposites, must be a cause affecting the safety of the public moneys in the Bank, or their distribution for the public service. Such a cause alone directly concerns the subject upon which the power is to be exercised. It is the only cause of which the functions of his office and his relations to the bank authorize and enable the Secretary to judge, and which is of such a nature as to require immediate action without a previous reference to Congress. It is the only cause which would justly deprive the bank of the use of the public moneys after having paid for it. It is the only cause which Congress could safely submit to the discretion of the Treasury, without abandoning to that officer the whole scheme of public policy in regard to a national bank.

1. A cause that does not directly concern the subject upon which the power is to be exercised, must regard the public moneys as an *instrument*, and not as an *object* of the power. To comprehend such a cause, the charter must be construed to give the Secretary an unlimited choice of the objects to be attained by the custody of the public moneys; for as none are pointed out by the charter but those of mere custody and transfer, the instant that these cease to be the only objects of the power, we are without any limitation. Whether the purpose of the Secretary be local or general, whether it be to make money dear or cheap, to regulate or to disturb exchanges, to promote or retard public works, to increase or diminish the amount of bank discounts, to excite or counteract political movements, each and all of these objects must be within the discretion of the Secretary, if any of them are.

2. That the Secretary should be intrusted with a power necessary to protect the Treasury itself, or to meet the demands upon it, is reasonable. If the public moneys are exposed to danger, *he* must first perceive its approach, and would be best able to measure its extent. He also, from his official position, must know the direction which public engagements require to be given to the means of satisfying them. The power, which either danger or the public credit makes necessary, is one that

does not admit of delay, whether Congress be in session or not. The action required, to be effectual, must be in some cases instantaneous. The grant or reservation of such a power to the Secretary of the Treasury was necessary and proper. But if the public moneys were to be made an instrument for effecting an ulterior object, no reason can be imagined why the power of using them should be given to the Secretary rather than to the President, or why it should be given to either instead of being left to the action of Congress. That nothing but the safety and distribution of the national treasure were the lawful objects of the Secretary's power, is conclusively shown by the circumstance that the "Act to establish the Treasury Department," the very moment that the Secretary gave the order not to make the deposites in the Bank of the United States, placed them in the hands of the Treasurer, who could lawfully make no disposition of them, but to keep them securely, to be disbursed according to law. A removal of the deposites for any purpose, except to place them in this custody, would be not only a violation of the rights of the bank, but of the functions of the Treasurer as created by law.

The minority are aware that an elaborate inquiry into the history and practice of the Treasury Department has been made by the committee, for the purpose of sustaining the position that the Secretary of the Treasury has the right, not only to superintend the collection of the revenue, but to direct in whose hands it shall be placed after it has been collected, and for what purposes it shall be placed there. The minority do not entertain the opinion that the inquiry has sustained the position of the committee. It ought to be a sufficient objection to it, that it gives to the Secretary a power which the law does not give him. The Secretary's asserted power is both without law and against law. It is a further objection to it, that most of the precedents of Treasury practice referred to, are directions affecting the *collection* of the revenue, which, by law, is under the superintendence of the Secretary. The acts of General Hamilton, the first Secretary of the Treasury, are all of this description; they prove nothing to the purpose. Orders to collectors to place the duty bonds in particular banks for collection, are strictly within the legal authority of the Secretary. More must be shown, to make any of the precedents conclusive on the point for which they are cited, namely, the existence of a Treasury practice. But if the practice were, in point of fact, established, no instance has been produced, in which the law has sanctioned it.

The language of the 16th section of the present charter expressly confines the power of the Secretary to the making of an order, or direction, that the deposites of the public moneys shall not be made in that bank; and does not give him authority to direct *where* they shall be made, or recognise such an authority as existing in him. It does not authorize him to *remove* the deposites already made there, or to select another place of deposite. He is to order or direct that they shall not be made *there*, and this order is not to be executed by himself, but by those to whom the general law gives the custody of the treasure, when the place selected by Congress is repudiated by the Secretary. Nothing can afford a stronger argument against the asserted authority of the Secretary to direct in what place the public deposites shall be made, than the omission to describe his power as that of ordering or directing them to be made in *some other place or places*. Until the law shall give the power to the Secretary, which it probably never will do, without regulating its exercise so as to make it consistent with the public safety, the minority must be understood as wholly denying the efficacy of any practice whatever to give it, in violation of the plain provisions of the act of 1789.

But if the Treasury practice was known to Congress, what follows? What is the import of the provision in the charter, that the public moneys shall be deposited in the bank, except that the practice was thought dangerous to the safety of the public moneys, and therefore was to be abolished, unless where that safety itself required a change of the place of deposite? The question under consideration is, whether any thing but the safety of those moneys, and their due distribution, authorized the order: and it is an extraordinary mode of proving the Secretary's power, to show a former practice to that effect, before the charter was granted, and which the charter provision effectually opposed.

3. The removal of the deposites must have been regarded by the Congress which gave the charter as a certain loss to the bank. The bank was to pay for them, and to be at liberty to employ them according to the usage and practice of banks; holding itself ready to pay, on demand, whatever should be required, in pursuance of appropriations by law. The advantage of possessing them was great, and the disadvantage of losing them, after paying for the possession, was greater. If they were to be removed on account of their insecurity, or for any breach of contract by the bank, or to place them where the bank could not herself distribute them, it is easy to perceive why no provision is made for an indemnity to the bank; but if they might be removed for other causes, particularly if removed to promote other interests, at the expense of the bank, indemnity would have been provided, because it would incontestably be due.

4. The decisive reason, however, against allowing the Secretary to order the removal for any other cause, is that the grant of such a discretion abandons the bank, as well as the country, to the Secretary of the Treasury, and gives him a sway over the nation, which belongs to no other than the Legislative department.

It is not to be doubted that the entire removal of the deposites is fatal to the bank as a national bank. Instead of being the bank of the nation, the nation, by depositing its treasure elsewhere, adopts other banks, and sets them up in opposition. This is the certain and undeniable effect of the Secretary's act; and if he had power to do this, he had power to repeal the bank charter. If, indeed, the bank had disqualified herself for her duties, by insolvency or infidelity, the removal of the deposites, to secure their safety, could only be considered as a renunciation of the bank, after the bank had renounced the nation; but a removal for other causes, however *honest or good* they may be, can only be regarded as a removal to destroy the bank.

As to the suggestion, upon which the committee appear to place some reliance, that safety cannot be the only reason, because, in case of danger, the removal could not be effected, if it proves any thing, it proves that safety cannot have been even one of the objects of the power, because it was an unattainable object; and then it proves too much.

A cause, then, which neither concerns the safety and due transfer of the public moneys; nor is within the cognizance of the Secretary's office; nor furnishes a moral justification for depriving the bank of a benefit which it has purchased and paid for; nor can be confided to the judgment and discretion of an individual, without surrendering to him the established policy of the nation, cannot be such a cause as justifies the Secretary in ordering the removal of the removal of the public deposites, because it cannot be maintained that Congress meant to give him a discretion to such an extent.

IV. The Secretary's communication admits that the public moneys were safe in the bank, and that in the transfer of them from place to place, and in the performance of every duty to the Treasury which the law requires, there was no ground of complaint whatever against the bank. These facts are admitted, because, in a communication which accumulates all the reasons which have

governed the Secretary, there is no suggestion of danger to the public moneys, or of infidelity in the transfer of them.

V. The causes which the Secretary has assigned for the removal of the deposites might, therefore, if the preceding propositions are true, be generally rejected as insufficient and illegal, since they do not come within the only description of causes which the minority hold to be adequate. They are, however, deemed to be particularly and specially inadequate, and most of them for reasons which are independent of any of the preceding propositions. Such of them as do not involve any disputed facts, are inadequate in law. Those which depend upon such matters of fact, are inadequate in law, and also in point of proof. All of them which accuse the bank of violation of charter, and claim to proceed upon that ground, are themselves in flagrant violation of the charter, and of the constitution of the Union, which entitle the bank, before the infliction of any penalty whatever, to an impartial sentence of the Judicial department. Upon these reasons, the undersigned proceed to submit the following remarks:

At the head of the Secretary's reasons, is placed the expiration of the charter and corporate powers of the bank, on the 3d of March, 1836. This is a reason which Congress, by the clearest implication in the charter, have declared to be insufficient.

1. By the 15th section, Congress have exacted of the bank, whenever required by the Secretary of the Treasury, to give the necessary facilities for transferring the public funds from place to place within the United States or the Territories thereof, and for distributing the same in payment of the public creditors, *during the continuance of the act;* and also to do and perform the several and respective duties of commissioners of loans, whenever required by law, which requisition was made in terms of unlimited continuance, that is to say, for the whole period of the charter, by the act of 3d March, 1817. These provisions of law are in irreconcilable hostility with the notion that, for the mere lapse of time, Congress authorized the Secretary to remove the public moneys from the bank two years and more before the charter would expire. The bank cannot give facilities for transferring and distributing the public funds throughout the United States, in payment of the public creditors, without having the funds in her possession to transfer and distribute. The duty is for the whole period of the charter. The possession is implied for the same period. Whatever may be the discretion of the Secretary as to other causes, he has no discretion to remove the deposites for the mere lapse of time, since the 15th section secured to the public, for the whole time of the charter, the performance of the duty by the bank.

2. This cause has not, and never had any contingency about it, nor is the removal on account of it, a remedy for an unexpected evil. If there is any evil in permitting the deposites to remain in the bank until the expiration of the charter, Congress knew that the evil would occur, unless they should guard against it; and yet they did not guard against it, but gave the bank a right to the deposites for the whole time, and received from the bank a compensation proportioned to that time.

3. The cause is not well founded in point of fact. The charter does not expire on the 3d of March, 1836. Certain of the faculties of the corporation will expire at that time, and certain of them will not; and the very faculties which will not expire are those whose cessation would alone give color to the removal, upon the ground of time. The faculty of retaining the public and private deposites, and paying them in such portions as may be required, will continue after the 3d of March, 1836, in as much rigor as before. The bank will continue for two years after that time to be a corporation for the purpose of holding and paying deposites, and of owing and paying her bank notes in circulation; and what other corporate faculties concern the security of the public treasure?

4. This cause is founded, morever, upon an assumption that it would be the height of extravagance to suppose it was contemplated by the Congress which incorporated the bank. The Secretary supposes that the charter, "in many of its provisions, is not warranted by the constitution, and that such a powerful moneyed monopoly is dangerous to the liberties of the people, and to the purity of our political institutions;" and that he is required to act upon the mere lapse of time, because he has no right to assume that an unconstitutional law, and a law dangerous to the liberties of the people, will be renewed. But it seems to have been forgotten that the question of removal is not the question of renewal, but a question of the interpretation of the charter; and, if this is the true question, can it be seriously alleged that the Congress which passed this law meant to include among the sufficient causes of removal, one that depended on the assumption that the charter was against the constitution? Had the charter contained an express stipulation that it never should be renewed, instead of its following as a consequence that the bank ought not to enjoy the privileges and benefits promised her up to the last moment of her existence, the contrary would have followed, because the bank could not have an indemnity for the wrong in the terms of a subsequent charter.

5. It is attempted to sustain the propriety of the removal for this cause, upon the further ground that the question of renewal has been decided adversely to the bank by the last election of President. But what part of the charter, or of any law of Congress, authorizes the Secretary to communicate such a reason to the House? Where is the warrant for the Secretary's instructing Congress as to the decision of the people upon a matter of future legislation? By what channel does the Secretary maintain an intercourse with the people that is not open to their representatives? How does the Secretary know any thing as to the wishes of the people, which the representatives of the people do not better know themselves? The communication of such a reason to the representatives of freemen, who are themselves freemen, is without a precedent in the history of this or any other representative Government. The alleged fact is, moreover, an assumption, and a mere assumption, without proof and without the means of proof. It is a political inference which the people of this country will never sustain, until they are prepared to say that the election of a President is not the result of a preference founded upon his general qualifications, opinions, and actions, but is an adoption and ratification of his single will to any extent that he has at any time declared it, and even when he may have declared it in contrary directions at different times.

6. Another suggestion by the Secretary, in connexion with the question of time, is the apprehension of danger to the deposites, by permitting them to remain in the bank until the expiration of the charter. The Congress of 1816 were but a very few years removed from a parallel case in the history of our Government, calculated to put to flight every such apprehension. They had at that time before them the closing transactions of the first Bank of the United States. They had seen that the first administration of Mr. Madison (and it was in his second term of office that the present bank was chartered) witnessed the continuance of the public deposites in that bank to the last moment of its existence. They had seen that the then Secretary of the Treasury, Mr. Gallatin, who had been in office for ten years, and who had for twice ten years given the strength of his powerful mind to the investigations of finance, and of practical banking, had not directed a removal of the deposites from any apprehension of a final default in the bank. They had

seen this, moreover, in the case of a bank whose corporate powers expired totally and absolutely on the 3d of March, 1811, so that all subsequent operations were to be conducted by the machinery of a trust, and by no other means. They had seen this bank expire with a circulation then flowing through the country greater than the maximum of its amount at any previous time, with the usual extent of deposites, public and private, in its vaults; with nearly all its canvass of every kind spread to the last hour of its voyage, and which the just and amicable relations subsisting between the administration and the bank made it safe to spread for the good of the country. They had seen the trustees of that bank pay every dollar of its debts instantly upon demand; and finally, they had seen that demand so much behind the ability of the trustees to meet it, that its tardy approaches were quickened by repeated public notices to come in and relieve the trust, by presenting the notes for payment. And what did the Congress of 1816 provide, or mean to provide, for the occurrence of the same day in the career of the present bank? Did they mean to provide for an apprehension which they knew to be chimerical? Did they mean to give occasion for actual apprehension and dismay, by authorizing the officer at the head of the Treasury to declare that there was cause for them, and by his very declaration to create them? On the contrary, they negative all such fears and suppositions, by adding two years more to the corporate existence of the bank, for the very purpose of enabling it to liquidate its affairs *after its banking powers were at an end.*

The minority deem it expedient to add a summary statement of the condition of the first Bank of the United States on the 1st March, 1811; two days before the expiration of its charter, and at two semi-annual periods after the expiration, and to name the tables from which they are derived, that the benefit of the facts may avail hereafter, if unfortunately they are to be lost to the country for all purposes of present good.

On the 1st of January, 1811, the situation of the bank was as follows:

Notes discounted and loans	$17,759,001
Specie	5,317,885
Public deposites	6,474,402
Private deposites	3,855,402
Notes in circulation	6,070,153

On the 1st of March, 1811, the same item stood thus:

Notes discounted and loans	14,587,134
Specie	4,835,702
Public deposites	2,874,833
Private deposites	3,583,596
Notes in circulation	6,552,875

On the 1st of September, 1811, the same items stood thus:

Amount of discounts and loans	7,152,786
Specie	4,500,527
Public deposites	322,349
Private deposites	448,112
Notes in circulation	2,963,209

On the 1st of March, 1812, twelve months after the expiration of the charter:

Amount of discounts and loans	3,792,975
Specie	6,116,776
Public deposites	81,517
Private deposites	223,442
Notes in circulation	1,070,459

It is unnecessary to suggest the inferences to which these statements give rise. By adverting to the ratio which the capital of the first bank, ten millions of dollars, bears to thirty-five millions, the capital of the present bank, and by applying the same ratio to the liabilities and resources of the two banks, it will be easy to perceive whether the case of the first bank was, or was not, of a character to allay the alleged apprehensions of the Secretary.

7. The remaining suggestion of the Secretary, under the head of time, is the necessity or expediency of providing the country with a paper currency from the local banks, as a substitute for that of the Bank of the United States.

The minority have understood the committee to say that they do not claim for the Secretary a power to remove the deposites for the purpose of regulating the currency. The question is what the Secretary has claimed for himself; and that there may be no misunderstanding about it, extracts from his letter are given, that it may be seen not only that the Secretary has claimed this power, but that the effect upon the currency was the great public and political purpose of the whole operation. Nothing can be more distinctly and literally avowed. "It is obvious," the Secretary says, "that the interests of the country would not be promoted by permitting the deposites of the public money to continue in the bank until its charter expired. Judging from the past, it is highly probable that they will always amount to several millions of dollars. It would evidently produce serious inconvenience, if such a large sum were left in possession of the bank until the last moment of its existence, and then be suddenly withdrawn, when its immense circulation is returning upon it to be redeemed, and its private depositors removing their funds into other institutions. The ability of the bank, under such circumstances, to be prompt in its payments to the Government, may be well doubted, even if the ultimate safety of the deposites could be relied upon. Besides, the principal circulating medium now in the hands of the people, and the one most commonly used in the exchanges between distant places, consists of the notes of the Bank of the United States and its numerous branches. The sudden withdrawal of its present amount of circulation, or its sudden depreciation *before any other sound and convenient currency was substituted for it*, would certainly produce extensive evils, and be sensibly felt among all classes of society."

The Secretary then adverts to the public agreement to receive the notes of the bank in payment of its dues, and proceeds as follows: "But this obligation on the part of the United States will cease on the third of March, 1836, when the charter expires; and so soon as this happens, all the outstanding notes of the bank will lose the peculiar value they now possess, and the notes payable at distant places become as much depreciated as the notes of local banks. And if, in the mean time, *no other currency is substituted in its place by common consent, it is easy to foresee the extent of the embarrassment which would be caused by the sudden derangement of the circulating medium.* It would be too late, at that time, to provide a substitute which would ward off the evil. The notes of the Bank of the United States in circulation on the 2d of September last, which was the date of the latest return before me when the order for removal was given, amounted to $18,413,287 07, scattered in every part of the United States: *and if a safe and sound currency were immediately provided, on the termination of the charter, to take the place of these notes, it would still require time to bring it into general use, and in the interim the people would be subjected to all the inconveniences and losses which necessarily arise from an unsound state of the currency.* The evil would be so great, and the distress so general, that it might even compel Congress, against its wishes, to recharter the bank; and perhaps more effectual means could hardly be devised for ensuring the renewal of the charter. It is evident that a state of things so much to be deprecated *can only be avoided by timely preparation;* and the continuance of the deposites can only be justified by the determination to renew the charter. The State banks can, I have no doubt, *furnish a general circulating medium, quite as uniform in value as that which has been afforded by the Bank of the United States—probably more so.* For it is well known that, in some of the cities, the branches

of the bank have been in the habit, whenever they thought proper, of refusing to honor the notes of their own bank, payable at other branches, when they were not offered in discharge of a debt due to the United States. *But a currency founded on the notes of State banks could not be suddenly substituted for that heretofore furnished by the Bank of the United States, and take the place of it, at the same moment, in every part of the Union. It is essential that the change should be gradual, and sufficient time should be allowed to suffer it to make its way by the ordinary operations of commerce, without requiring a hasty and violent effort.*

"In this view of the subject, it would be highly injudicious to suffer the deposites to remain in the Bank of the United States until the close of its corp rate existence. And as they cannot be withdrawn without the action of the Secretary of the Treasury, it must unavoidably become his duty, at some period of time, to exercise the power of removal."

These are literal extracts from the Secretary's letter, and no one who reads them can doubt that the Secretary claims the right to regulate the currency, and that he meant to force one kind of currency out, and, by means of the State banks, to force another kind of currency into use. Can any one who has read his letter, doubt that, if this power is denied by the committee, they deny the whole case of the Secretary? The lever he has undertaken to use, is one which not only cannot be used without changing the currency, but the Secretary has used it for the express determinate purpose of producing the change. But to proceed with the reason itself:

The value of the measure, as an operation of finance, to expel one currency, and to introduce a better, has been already tested, in the short time which has elapsed since the order of removal. The discounts of the bank have been partially reduced, yet the circulation of the bank, instead of being diminished, has increased. The local bank paper, except for local purposes, has generally depreciated, and the paper of the Bank of the United States is at par in all places except where it is above par. But without adverting further to the incompetency of the means proposed to attain the end, it is an imputation upon the Congress of 1816 to say they intended to authorize the Secretary of the Treasury to use any means whatever for the attainment of such an end. The avowed purpose of the Secretary is to change the currency of the country, and to change it during the very time in which Congress have made a different provision in regard to it. The purpose is to be effected by compelling the Bank of the United States to cease lending, and by enabling the deposite banks to lend; by compelling the one to cease circulating bank notes, and enabling the others to circulate them more extensively. In fine, by compelling them all to give him indirectly the management of banks, without any law to warrant it, and to surrender it themselves, contrary to the laws by which they are exclusively entitled to it. A power to do this no Congress could lawfully give to a Secretary of the Treasury, and no Congress therefore should be presumed to have given it. It is a delegation of the highest powers of legislation, under the form of ministerial agency. If there is any legislative power which demands more circumspection in its use than any other, it is that of regulating the currency. The currency is the measure of value of every man's property, of his contracts, of indemnity for the breach of them, and of the revenue of the country; and without a due adjustment of it, it is a hopeless effort to distribute in equal proportion among the citizens either the burdens or advantages of civil society. A deranged currency deranges every institution of the country that has any relation to property. It makes laws, promises, the verdicts of juries, and the judgments of courts, speak unintentionally the language of falsehood or deceit. It gives a premium to fraud, and strips honest labor of its scanty earnings, by paying to it half of its just recompense in the false and counterfeit name of the whole. Yet this power the Secretary of the Treasury claims to exercise, by delegation from the representatives of the people, and he has proceeded to the exercise of it, with consequences which are now spreading in a wave of destruction over the whole country. The Secretary claims the power to remove the public deposites from the bank, if in any degree it tends to promote the convenience of the people, that is to say, if it so tends in his opinion; and his opinion, with this mighty lever of the public revenue, is, consequently, to sway the universal interests of this immense people. And what are the direct evidences that Congress meant to give the Secretary of the Treasury any such power? He is not by law intrusted with the custody of a single dollar of the public treasure. His hands do not legally receive it, and cannot legally hold it. His duty is to prepare plans for the management and improvement of the revenue, to prepare estimates of the revenue and expenditures, to superintend the *collection* of the revenue, to decide on the forms of keeping and stating accounts, and to grant warrants in pursuance of appropriations by law. The notes of the Bank of the United States, against which this battery is directed, he is bound by law to protect, by requiring all public collectors to receive them in all payments to the United States. The stock of the nation in the Bank of the United States he cannot sell, nor separate their interest, to the extent of seven millions, from that of the other stockholders of the bank. The payment of the interest and principal of the public debt must be made by and through the bank, as commissioners of loans. The military pensions must be paid through the same channel. And thus, while several permanent laws of Congress, without any limitation in point of time, sustain the circulation of the bank, the relations between the bank and the Treasury, and the control thus obtained over the currency of the country, the Secretary of the Treasury, under a provisional clause in the bank charter, to order that the deposites of the public moneys shall not be made there, claims the authority to break up the present system, and to substitute another, for regulating the currency and property of twenty-four States, and thirteen millions of people. The minority do not believe that a like attempt has ever before been made, with or without authority, and all present indications are inconceivably deceptive, if the result shall not afford a memorable warning against the like attempt again.

The Secretary's plan is now called an *experiment*. The name is adopted, because it would seem only to defer, and not absolutely to destroy, the hope of ultimate safety. It is adopted, because it would seem to make those who prosecute it responsible for less, because they promise less. But the change of name changes neither the thing nor the responsibility for it. If it be an *experiment*, what law, what principle of our civil associations, authorizes the Treasury Department to try such an experiment? What security does Government afford to the property of the citizens, if the Treasury may try experiments with it? If it be an experiment, what authorized its trial in a day of unusual prosperity, and when the only rational prayer to the civil ruler was, "Let us alone?" What justifies its continuance, when the first test that has been cast into the crucible with the precious materials of human happiness, has nearly decomposed them all, and threatens to convert them into poisons that will corrode and canker the country to its very heart? It is no longer an experiment. It has been tried, exposed, and ought to be rejected. It is no longer an experiment, unless it would deserve the name of an experiment to try whether life can be supported without vital air, or the laborer and his children without daily bread.

If it should finally happen, in the progress of the experiment, that a currency is created such as the Secretary

anticipates, what is that currency to be to the country, and what is the country to be by means of it? This question may be answered by our own history, as it might be answered without the aid of history. It is not to be a national currency, nor a currency partly local, and partly national, maintained every where in the condition of equality, by a universally pervading influence, but it is to be a variety of local currencies, subject to local influence only. The State banks, and the State banks only, are to furnish it. They are to furnish it under the patronage of the Treasury, and with a full knowledge of the maxims which have been quoted by the committee, "*that the borrower is the servant of the lender,*" and that "*he who controls a bank, controls the debtors of a bank,*" maxims which will be found to lose none of their force when State banks shall feel the effect of their position as borrowers of the Treasury, and debtors shall feel it also as borrowers of State banks that are under the control of the Treasury.

It will be a currency wholly removed from that restraint which a national institution is alone capable of imposing, in all parts of the Union; that is to say, free from all banking restraint whatever; for, practically, there can be no restraint where there is no general and pervading power to enforce it. In some, perhaps in several, of the untrammelled and independent State banks, banking will be conducted upon judicious principles, so far as it regards their own operations; and their own local currency may continue for a time locally sound. But where shall be the controlling cause that shall secure this result where the principles of banking are unsound, and where the desire of large profits shall tempt State banks to extend their issues beyond that measure which experience has ascertained to be the only safe and accurate measure? Where is to be found the universal presence of a test that will instantly detect excess, and lead to its detection? That test is to be found in a national paper, based upon the precious metals, sustained by the law of the whole land, received in payment of all public dues, circulating every where, and furnishing a standard of comparison every where. Where, again, is to be found the necessity, as well as the power, of applying the corrective? This corrective is to be found in an institution which issues that national paper, and which, in self-defence, and in defence of the nation also, must repress the circulation of every bank that does not provide it with the means of disbursing the public treasure in all parts of the United States. The paper that is really sound will be as good as its own, and will be received as such, and may circulate as such. But if the paper of any one of the State banks is not as good as its own, such an institution cannot receive it, because it cannot account for it every where to Government, in an equal amount of its own paper or of specie. If it cannot be received by the national institution, it must return to those who issue it, and the corective is at once applied.

The system of local banks, of which those to be employed by the Treasury are to form a part, is, therefore, defective in this—that their circulation will be local. They will be constantly endeavoring, at least in a great many cases, to send out their paper to excess; and there cannot be the regular application of the corrective, that will as constantly prevent it. It may be repressed in some instances, in an irregular way, by sound State banks; it may also be partially repressed by demands from other States; but the effort to do it regularly will be without inducement, and will not be sustained by the requisite ability. Excess will creep upon the country until it is universally diffused; and when an accidental state of the balances shall turn the excess suddenly back upon the banks which have issued it, dishonor will come, and with it universal alarm and bankruptcy. This is the history of the past, and a lesson for the future. A confederation of State banks, sanctioned by the laws of the States, is a scheme which the minority do not think it necessary to combat, until some one shall propose it, and present its outlines. An attempt to regulate the currency by the operations of State banks, through private compacts with each other, or with the Treasury Department, will probably fail, however often repeated, as it has failed already. A partnership of different corporations, for profit and loss, or for mutual guarantee, with independent boards of direction, is as strange a contrivance for the security of stockholders as it is for the control and regulation of the currency. When the question of providing a regulation for the currency shall be deliberately considered, the minority have no doubt that the project of employing State banks for national purposes will be universally rejected as impracticable.

The hope of obviating all these difficulties by the final substitution of a metallic currency in exclusion of bank paper of every kind, is a mere delusion. No one who reflects upon the subject at all, can either see how it is to be effected, or what it is to do but harm, when it shall be effected. Through what process are the State banks to be extinguished, as well as the United States Bank? If they continue, how is their paper to be superseded? If their paper is to remain, who is to exchange a productive capital for specie to serve as currency, when paper, which costs nothing, will answer the same purpose? Who is to begin the traffic? For specie, like other merchandise, is to be bought and paid for; and it must be bought and paid for by something besides paper. And when there shall be a thorough abolition of every kind of paper from use, how will the gold and silver be better than the paper we have had hitherto, which gave us all the gold and silver we wanted, and did not compel us to take it when we did not want it? What will the country have gained, and particularly the industrious and enterprising, who are without capital, and must borrow it in order to use it—the men by whom this nation has been enriched and strengthened? What will the industrious and enterprising do, after a scheme shall have succeeded which, by destroying paper, will infallibly destroy bank credit, and give to the man of capital a monopoly of the trade and industry of the country? The subject, however, need not be pursued. There is a power in the necessities of men which will baffle all such designs, if they shall be seriously entertained; and this the minority do not, in the slightest degree, apprehend. If bank paper is not to be wholly extinguished, but only diminished by the substitution of metal for the smaller denominations of notes, this, indeed, is admitted to be an object of great importance, and mainly for the reason that, in case of an unusual call upon banks for specie, they may be able the more readily to repair their resources from the channels of the country. But, if this design is to be carried into effect at all, it is demonstrable that it can only be done by a national institution operating with the public treasure, and regulated by laws of Congress, directed to the great constitutional end of equalizing and sustaining the currency. State banks and their operations are to be controlled, and not the controlling power, in the execution of such a design; and, consequently, the plan of the Secretary for extending the power and circulation of the State banks, is at the farthest possible distance from the object of either extinguishing or diminishing paper currency.

The minority do not deem it necessary to make any further remarks upon the reasons of the Secretary for removing the public deposites, in order to prepare a currency in State bank paper.

VII. Another reason of the Secretary for removing the deposites, is derived from the supposed pressure by the bank upon its debtors, including the State banks, in the months of August and September, 1833, to coerce a renewal of the charter.

The minority deem it an act of indispensable justice to the bank to say, that if reductions have at any time press-

ed with unnecessary severity upon her debtors, of which they have seen no evidence, the bank stands excused before the world by the course of the Treasury Department. The act of removal has not only been an act of declared hostility, but it has been preceded and followed by all the customary practices of imbittered war. The bank has never been directly apprized of any thing that the Treasury purposed to carry into effect against her. If made aware of it, it has been through rumors in the streets, or hints in the newspapers, and never from the Treasury Department, until the moment that the blow was given. The determination to remove the deposites has not, to this day, been made known to the bank by any official communication from the Treasury; no evidence certainly of such a communication has been sent to this House. An order of the 26th September, 1833, by the Secretary to the president of the bank, to deliver to the collector at Philadelphia all bonds to the United States, payable on or after the first of October, was the only annunciation to the bank in Philadelphia; and this, by the collector's letter of the 28th, would seem to have been communicated to the bank on the 30th of September. Yet it is now known that the removal of the deposites was a foregone conclusion a considerable time before that.

The times and amounts in which the deposites were to be drawn by the Treasury, were not only not made known, but were concealed from the bank. The Treasurer had been for years in the practice of sending daily lists to the bank of every draft drawn upon it, stating both the date and the amounts, without the names of the holders; and he also sent weekly lists of the drafts, with the particulars in every point. These were the suggestions of amity to assist the bank, by the fullest information of the Treasury purposes. But as soon as the policy of the Treasury Department was altered, and a hostile attitude assumed, the practice of daily and weekly lists was continued; but they did not speak the whole truth. Drafts to an immense amount were withheld from the lists, to be used according to contingencies, and at points where the bank might or might not be prepared to meet them; and the daily and weekly lists consequently became instruments of deception to the bank. The bank was left to ascertain and prepare for the Treasury demand, with deceptive information as to its extent. The minority annex hereto the correspondence between the Treasurer and the cashier of the bank upon this subject.

And even now, when the cry is still that the bank is oppressing the country, rumor gives out, with her thousand tongues, that it is the purpose of the Treasury to reject the whole mass of bank drafts at present in circulation, amounting probably to more than five millions, and to force them back upon the bank, by refusing to receive them in payments to the United States. The bank is left to ascertain the truth of this also, and to prepare for it as well as she may.

Can it be justly said that the bank has, at any time, done more than was necessary for her protection, when the Treasury Department has made it impossible for the bank to know whether any thing short of defence, at all points and in every form, would give protection?

What is the position in which the removal of the deposites has placed the Bank of the United States? Before that removal, the bank collected and disbursed the public revenue, facilitated the domestic exchanges by means of it, and kept in order the currency of the country every where. The bank then owed these duties to the whole nation, and her obligations to the stockholders were secondary. She is now deprived of the means of performing them, and her obligations to her stockholders and creditors have become primary. The Bank of the United States is now a private bank, forced to become so against the will of her directors and stockholders, not sustained but opposed by the Treasury, and therefore left to sustain herself. What is to measure her loans to the community, but the sense of her own safety? What is to be the judgment she is to form of the experiment now on trial, but her own judgment? She considers, and, according to the report of the committee, she is bound to consider, that the sentence of death has gone forth against her; and if this be so, what principle compels her to put the capital of her stockholders at risk upon the issue of an experiment?

The alleged pressure by the bank in August and September, 1833, with a view to coerce a recharter, requires to be particularly considered, for two reasons: first, because it is believed that the reason of the Secretary is not in this instance sustained by evidence; and, secondly, because it is also believed that what the bank has done, is doing, and will probably be forced to continue to do, is in perfect coincidence in all its parts with the plan which the Secretary intended, by the removal of the deposites, to force upon the bank and the country.

1. The imputed design of the bank to coerce the renewal of its charter, is an inference from the mere fact of its reductions. There is nothing else suggested to justify the imputation, and its propriety is consequently not to be made either more or less clear by argument. If such was the design of the bank, it is impossible to imagine any plan that could more effectually have promoted it, than that of the Secretary. The fact of pressure and distress in August and September, 1833, is however now known to have been assumed as a motive for the removal, without sufficient evidence or consideration. Pressure and distress are, it is true, terms which indicate comparative rather than absolute difficulty, and, therefore, it is not easy to prove that the payment of debts to a bank is not always the occasion of some pressure and distress to those who are compelled to pay. But such as are sufficiently at ease to consider what was the condition of the country during the sixty days which preceded the removal of the public deposites, and to compare it with that which it has assumed in the course of the last two months, will admit that the state of the country, up to the hour of removing the deposites, was a state of comparative beatitude. In the now established sense of pressure and distress, the commercial cities and the country, up to the removal of the deposites, were wholly exempt from every appearance of either. That justification of the Secretary's motive fails therefore entirely in point of fact. Had any such pressure existed, the intention to remove was so justly apprehended for months before it was executed, and the reductions by the Bank of the United States in August and September were so indispensable to her safety, in the extraordinary relation in which the Treasury was about to place her, that few persons, who consider the subject dispassionately, would be inclined to infer a purpose of coercion from that which could be so much more naturally traced to the motive of self-protection.

2. But the conclusive answer to the Secretary's reason is, that what the bank did, is doing, and must continue to do, was, and is, and will continue to be, the inevitable effect, as well as the declared purpose of the Secretary's plan. That plan seems of late to have been put aside for the more satisfactory occupation of censuring the bank. It deserves to be recalled to the consideration of the House. It is to be recollected that the Secretary assumes as a postulate, that the notes of the bank, *as soon as the charter expires*, on the 3d of March, 1836, "will lose the peculiar value they now possess, and the notes payable at distant places become as much *depreciated* as the notes of local banks; and if in the mean time no other currency is substituted in its place by common consent, it is easy to foresee the extent of the embarrassment which would be caused by the sudden derangement of the circulating medium." The Secretary then proceeds to say, that "it is of the first importance to the interests of the public,

that these notes should *all* be taken out of circulation before they *depreciate* in the hands of individuals who hold them; and they ought to be withdrawn gradually, and their places supplied as they retire, by the currency which will become the substitute for them." The Secretary then immediately inquires, "How long will it require for the ordinary operations of commerce, *and the reduction of discounts by the bank*, to withdraw the amount of circulation before mentioned, without giving a shock to the currency, or producing a distressing pressure upon the community?" The Secretary answers his own question—"I am convinced that the time which remained for the charter to run after the 1st of October, (the day on which the first order for removal took effect,) was not more than was proper to accomplish the object with safety to the community; and if it had depended on my judgment at an earlier period, I should have preferred, and should have taken, a longer time." Here, then, is the Secretary's plan distinctly announced. The bank was to be compelled to withdraw *all* her notes from circulation before the 3d of March, 1836, and was to begin *forthwith*, as the whole time that remained was not more than was enough. The Secretary would have taken more if he could, and the bank, by taking the two months before the removal, did but assist the design of the Secretary. The Secretary himself perceives that the bank can effect the recall of the notes only by reducing the discounts. His plan, therefore, was to compel reduction forthwith by removing the deposites. This is demonstrably plain. It admits of no doubt whatever. The extent of reduction necessary to produce this effect, was consequently the very extent of reduction which the Secretary meant to force upon the bank, and any reduction short of it is less than he intended. Now, it is equally clear that nothing could call in the whole circulation, but calling in all the discounts and closing the bank. With the first discount the first bank note went out. The last note may be expected to come in with the last loan that shall be repaid. The Secretary's plan, to take all the notes out of circulation before the 3d of March, 1836, was therefore a plan to call in all the discounts before the same day; and in what way sixty-four millions of discounts, the amount in August, 1833, could be called in, in thirty-one months, at a less rate than two millions per month, remains to be shown. It is impossible to show it. The bank has not, in fact, called in ten millions in six months; and more than what she has called in has been taken away from her by public and private depositors. The rate of reduction has been less, consequently, than the Secretary's plan required, and there must be more reduction if the bank does not mean to defeat the plan of the Secretary.

One alternative only is then presented to those who object to the reductions of the bank. Either the bank has not yet reduced enough, (for she has not been able to reduce her circulation at all,) or the whole scheme is exploded the instant it is subjected to practice. It is obvious that the only measure which the Secretary deemed repugnant to the interests of the country was the extension of discounts by the bank, or the continuance of their amount as it stood at the time of the removal. Reduction was the agent and the only agent that he intended to use. If the plan of the Secretary is to be defended and maintained, complaints of reduction by the bank, far greater than she has ordered, will be without color of justification, since far greater reductions will be necessary to effect his plan. If, on the contrary, the plan is to be abandoned because it is utterly impracticable, it ought to be wholly abandoned, and the path of wisdom as well as of justice will then be found in a return to the point of departure. The fact unquestionably is, that the removal of the deposites, the reduction of discounts, and the consequent reduction of the bank circulation, have been considered without the slightest reference to the complex state of pecuniary relations existing in the country. The whole process has been regarded as a mechanical affair, of which all the details would quietly come out as necessary results of the first measure. No allowance has been made for the consequences of confidence broken up; of the interruption of that regular series of receipts and payments, by which the resources of the creditor and debtor are alternately repaired; of exposing to trial, or even to suspicion, the fragile virtue of those State banks that are able to live upon their reputation merely because it is not questioned; and of attempting to take out of a powerful machine, while it is in full operation, the wheel that balances and regulates the whole. No allowance has been made for any of these consequences, by those who have led to their occurrence, and now when we are surrounded by them, and cannot escape from them, even the plan which has caused them is forgotten in the censure of the bank for conforming to it. The bank is but travelling in the path which the Secretary prescribed, and to which the removal of the deposites, and the collection of the revenue through other banks, must inevitably confine her. Her resources for general relief have been taken away, and given to those who cannot use them. Her ability to secure the return of what she lends in the sound currency in which she lends it, is also gone. The whole country perceives that what is wanted is security for the future; and while the plan of the Secretary shall be prosecuted in any of its parts, the people will not believe that a single day of the future is secure. This universal distrust and apprehension, and not the operations of the bank, will be received by the dispassionate observer as the solution of the difficulties which now surround us; and whatever will remove this distrust and apprehension, and nothing short of it, will provide the remedy. The return of the deposites is, in the judgment of the minority, an indispensable part of this remedy, due by public faith to the bank; due also by public policy as a declaration of peace between the Treasury and the bank. But they cannot regard the mere return as affording the promise of a radical cure. The eyes of the nation are now intently fixed upon the currency. If the present bank is not to be rechartered, something to regulate the currency must be provided in its place. The plan of the Secretary gives over the regulation to State banks, which will themselves be promoters of the disorder. The country requires something which will regulate the State banks. Until this is effectually provided, the minority have no expectation that distrust and apprehension will disappear, however they may be diminished.

VIII. The remaining reasons of the Secretary may be classed under two heads: acts by the bank in violation of its charter, and an act or acts of unfaithfulness in the execution of its duty to the Treasury. Under the first must be included the constitution of the exchange committee of the bank, the alleged exclusion from that committee of the directors appointed by the President of the United States, and the expenditure of money for printing and circulating pamphlets. Under the second no fact is particularly noticed by the Secretary but the case of the French bill.

1. In relation to all the operations of the bank, included under the first head, it must be answered that, whether the bank has been right or wrong, her board of directors assert the legal right to do whatever has been done. Her American stockholders also, who, with the fullest knowledge of all the circumstances, have repeatedly elected the same directors, assert the same right, and approve the acts which have been done in execution of it. If these acts are not in violation of the charter, they are mere acts of administration or management of the bank, which the United States as a stockholder have agreed to commit to the discretion of the board of directors.

The directors appointed by the President have no veto

upon the resolutions of the board. The President has no such veto. If the resolutions are lawful, the charter, and all the stockholders, public and private, as parties to it, must be considered as having committed to the directors the entire discretion to make and execute them. They may have been inexpedient, and if they have been, the corrective is to be sought in the annual elections. They may have been deemed inexpedient by the directors appointed by the President, but if they have been, the law has determined that they are legally bound by the voice of a majority of the board. Upon questions of administration within the legal competency of the board, there is no more justification of an attempt to tear the bank to pieces, by a part of the directors, or by the Treasury Department, in support of them, because the voice of the minority is not respected, than there would be for an attempt by a State or States, for the like reason, to sever the Union. All the parties to the compact have agreed that questions of administration within the lawful competency of the Legislature, whether of the bank or of the Union, shall be decided by a majority, and if they require correction, that they shall be corrected by a majority, and in no other way.

Upon the supposition, then, that these measures of administration by the bank have been lawful, the minority take it to be free from doubt, that the Secretary's dissatisfaction with them is not one of the causes which authorized him to remove the deposites. The management of the bank has not been committed to the Secretary. He has no right whatever to inspect its management, or even its condition, except in a limited way, for the purpose of ascertaining the security of the deposites. To have given him the power of removal in any case in which he should deem the management wrong, would have been to give him effectually the management of the bank in every particular. The charter removes all such causes from his cognizance by committing the management of the bank to the directors, under such powers and restrictions as the charter and by-laws determine.

If, on the other hand, the acts thus questioned are violations of charter, the objections to the Secretary's act are equally plain. In the first place, he is not the officer to whom the charter has confided the authority to direct a prosecution for a violation of charter; in the next place, it has expressly confided that authority to others; in the third place, the bank is entitled to be heard before any judgment of violation is pronounced; and lastly, that judgment is to be pronounced by the Judicial department only.

The Secretary's power to arraign the bank for violation of charter cannot be asserted. It is a power of the most delicate and critical nature, and the twenty-third section of the charter commits it to the President and to Congress only. That the Secretary should be impliedly authorized to decide the whole question, and to remove the deposites at once upon that ground, when the charter does not give him authority to issue a *scire facias* to have the question tried, cannot be maintained. Those who have authority to direct the prosecution, have no right to try it, or to give judgment on it. The Judicial power is not in Congress or in the President, and they cannot exercise it without themselves violating the charter of the bank, and the constitution also. The bank is not even charged with violation of charter. When charged, she will be entitled to a hearing; when heard, she will have the benefit of trial by jury; and when the first judgment shall have been rendered, she will be entitled, if it be adverse, to a review in the Supreme Court of the Union. In the mean time, in the sight of the nation and the law, all her charter rights remain in their original vigor. If the want of sufficient time to try the question is a reason for deciding it without trial, it is one that prostrates all the barriers which the constitution has raised between the assertion of arbitrary power, and the life, liberty, and property of the citizens. The spirit which frowns upon the temperate and deliberate inquiries of the judicial magistrate, and demands its victim in anticipation of the tardy and unaccommodating sentence of the law, is not the spirit of the constitution, nor of the law-abiding people of the United States.

The bank then has a legal right to say, as her directors have said, that she has not been guilty of any violation of charter, and Congress have not the legal right to adjudge the contrary. If they cannot adjudge the contrary, they cannot lawfully deprive the bank of a single privilege or benefit conferred by the charter, upon the ground that she has lost them by violation of charter. Every benefit of the charter is a right of property, and it would be infinitely better for the constitution and for the people, that Congress should at once hold the public deposites to be removable without cause, rather than assign the cause of violation of charter, and enforce the sentence of forfeiture to the extent of a dollar, upon the *ex parte* report of a committee. The minority do not mean, so far as they are concerned, to impair the chartered rights of the bank, by attempting an investigation of the law and the facts before a body that is not constitutionally authorized to try them.

The exclusion of the directors appointed by the President is nowhere shown to have been ordered by the board, or by the president of the board. They have not been appointed on certain committees, and this is all that can be said, and the same may probably be said of many directors appointed by the private stockholders. It depends upon the pleasure of the board, and is a matter of administration. Whether there was any thing in the capacity or dispositions of the individual directors referred to, to make their appointment upon certain committees proper or improper, it might be deemed invidious in a paper of this kind to inquire, particularly as it is understood that the Senate of the United States have not advised their reappointment to office, and they therefore do not at present stand in the position of public servants whose acts require further investigation.

The expenditure of money for printing and circulating pamphlets has not been questioned by the stockholders. They have been fully apprized of it, and they have more than once re-elected the directors who have authorized it. The right to print and publish is a constitutional right. It belongs to corporations as well as to natural persons. It cannot be previously restrained, and it cannot be subsequently punished, except by the sentence of a court, when it is proved to have been done in violation of law. If it has been necessary to defend the directors of the bank from aspersions upon their characters for what they have done as directors, or to prevent the credit of the bank from suffering by imputations upon its solvency, or the integrity of its administration, the charge of the expenditure belongs properly to the bank, because it is in vindication of the operations of the bank. As to such expenditures, the stockholders are the ultimate judges, and all the stockhoders are bound by a vote of the majority ratifying the expenditure, as much as they would be by an order to incur it. The subsequent ratification, by the re-election of the directors who ordered it, is equivalent to an original command. Whatever printing or publishing has been done by the bank, has been done openly, without cover or disguise. It has been done in the assertion of a right, and the public have known it. Whether an influence equally public, and equally innocent, has directed and supported those attacks upon the bank, which have thrown upon the institution the expense of resisting them, it does not belong to the minority of this committee to inquire.

2. The case of the French bill, as upon a claim for damages by the bank, is not before the Committee of

Ways and Means. If the bank shou'd make a claim upon Congress for the satisfaction of that demand, it would probably be referred to a different committee. It is before the Committee of Ways and Means upon the question whether the act of the bank in making such a claim to the Secretary of the Treasury, is a reason for dismissing the bank as a fiscal agent of the nation, and the majority of the committee have decided that it is. The minority are willing to leave this question to the decision of the House and of the country. It is a principle which, if rigorously applied, will possibly economize the time of the House, and the labor of the Committee of Claims. If it is understood to be the opinion of the House that every agent or officer of the nation, who makes a claim upon Congress or upon the Treasury, deserves to be dismissed from his office, it will probably put an end to all claims that are not thought to be worth more than the office to the person who makes them. No one can by possibility do less than the bank has done in the prosecution of her claim, and therefore safety is to be found only in not making claim at all. This objection does not unfitly close the test of the Secretary's reasons. It is a case in which there was no agency in the bank, and no unfaithfulness in any one of her steps, from the time when the bill was brought from the Treasury, to the time when it was returned under protest, and the Treasury refunded the amount. The bill was bought, paid for, and duly forwarded by the bank, duly presented, duly protested for dishonor, duly returned, and duly notified to the Treasury Department. It was notified with a claim for damages, in the same manner in which the United States have for forty-five years notified similar claims to the drawers and endorsers of dishonored bills, and enforced them also without any exception. If this notification of a claim is sufficient to deprive the bank of her right to the public deposites, the minority are not unwilling that the character of the other reasons shall be inferred from that of their associate.

The minority are, upon the whole, of opinion that none of the reasons assigned by the Secretary in his communication to Congress are sufficient to justify the removal of the deposites. They are also of opinion that it is due to the bank to return them, without regard to the sentiment of the House upon the subject of recharter. They are further of opinion that the situation of the country requires immediate action by Congress, to restore public confidence, and to prevent a derangement of the currency. And they express to the House their settled conviction that these objects will not be attained if the public deposites are left in the State banks. They think, besides, that the universal voice of the country requires that something shall be immediately done for public relief, and that the resolutions proposed by the committee will only aggravate the existing evils, instead of providing a remedy.

R. H. WILDE,
BEN. GORHAM,
HOR. BINNEY.

To the Senate and House of Representatives of the United States:

The Board of Directors of the Bank of the United States respectfully represent:

That, by the charter of the bank, it was stipulated between the Congress of the United States and the stockholders of the Bank of the United States, that, in consideration of a full equivalent rendered by them, in money and services, they were entitled to the custody of the public moneys, which were not to be withdrawn from it unless for the reasons of the sufficiency of which Congress and Congress alone was the final judge.

That the bank has in all things faithfully performed the stipulations of the charter.

Nevertheless, since the adjournment of Congress, the Secretary of the Treasury has issued an order on the 26th of September last, withdrawing from the possession of the bank, the custom-house bonds deposited therein, and has subsequently transferred to certain State banks, a large portion of the public moneys then in the safe-keeping of the bank, with the purpose of making them hereafter, the permanent depositories of the public revenue.

The Board of Directors therefore, deem it their duty forthwith to apprize your honorable bodies of the violation of the chartered rights of the stockholders, and to ask such redress therefor as to your sense of justice may seem proper. By order of the Board:

N. BIDDLE,
President of the Bank of the United States.

Philadelphia, *December* 9, 1833.

House of Representatives, *May* 22, 1834.

Mr. Thomas, from the committee appointed to investigate the affairs of the Bank of the United States, made the following report:

The committee appointed in pursuance of a resolution of the House of Representatives, passed on the 4th day of April, by which it was

Resolved, That, for the purpose of ascertaining, as far as practicable, the cause of the commercial embarrassment and distress complained of by numerous citizens of the United States in sundry memorials which have been presented to Congress at the present session, and of inquiring whether the charter of the Bank of the United States has been violated, and also what corruptions and abuses have existed in its management; whether it has used its corporate power or money to control the press, to interfere in politics, or influence elections; and whether it has had any agency, through its management or money, in producing the existing pressure, a select committee be appointed to inspect the books, and examine into the proceedings of the said bank, who shall report whether the provisions of the charter have been violated or not; and, also, what abuses, corruptions, or mal-practices have existed in the management of said bank; and that the said committee be authorized to send for persons and papers, and to summon and examine witnesses on oath, and to examine into the affairs of the said bank and branches. And they are further authorized to visit the principal bank, or any of its branches, for the purpose of inspecting the books, correspondence, accounts, and other papers connected with its management or business; and that the said committee be required to report the result of such investigation, together with the evidence they may take, at as early a day as practicable:

Respectfully submit the following report, in part, of their proceedings, so far as they have found it practicable to discharge the duties devolved on them.

Charged particularly to examine into the conduct and condition of the Bank of the United States, they have endeavored most anxiously to ascertain correctly the true character of that highly responsible and delicate trust.

To judge rightly of the proceedings of the House of Representatives, and of its committee, towards the bank, it must be borne constantly in mind that that corporation differs essentially from an ordinary banking company, incorporated for private benefit. The Bank of the United States was chartered for great public purposes, as an agent, deemed necessary to the Federal Government, in the efficient exercise of its high prerogative, to fix the value of money, and thereby secure the benefits of a sound circulating medium to the confederacy.

It was designed to aid the Treasury Department to collect conveniently and disburse the national revenue. Of its stock, the United States hold seven millions of dollars, and its notes are by law made receivable, at par value, in payment of all dues to the Government. Concede as we

must, that the bank was established for great public ends, and that the House of Representatives is the grand inquest of the Union, and, as such, has power to visit and inspect all departments of the Federal Government, to correct their abuses, reform their errors, and confine the exercise of their powers within the limits prescribed by law to each, and it follows that the House has power to appoint a committee to make a minute and full inquiry into all the multiform operations of this powerful corporation.

But that there might be no doubt of the existence of the power here contended for, it has been expressly reserved in the 23d section of the charter of the bank, which provides "that it shall be at all times lawful for a committee of either House of Congress, appointed for that purpose, to inspect the books and examine into the proceedings of the corporation hereby created, and to report whether the provisions of its charter have been violated or not."

The language in which this authority of the House is described, is so plain and so full, that an attempt to illustrate it appears to be supererogatory. The committee to be appointed are to "inspect the books, and to examine into the proceedings of the corporation," without exception. The section contains no reserved power to the bank to designate the place where, or the persons in whose presence the examination shall be made. These modes of exercising the main power are necessarily, as its incidents, dependent on the discretion of the sovereign with whom it is lodged. A contrary construction would make either or both Houses of Congress dependent on the agents whose conduct is to be the subject of inspection.

If the bank can attach any conditions to its exercise, not found in the charter, then it could render nugatory the power by which it was intended it should be checked and controlled. That the great conservative purposes for which such committees of investigation were to be appointed might not be thus defeated, the extent and character of their inquiries are rightly made to depend on the wisdom, patriotism, and justice of either House of Congress.

The only restriction to be found in that clause of the bank charter which we are considering, is that which relates to the committee, and not to the House; and has reference not to the extent of the examination, but to the character of the report to be made. The committee is directed to report, amongst other things, "whether the provisions of this charter have been violated or not." The object of this specific requirement is to be found in another clause of the same section of the charter, which provides, "whenever any committee, as aforesaid, shall find and report, or the President of the United States shall have reason to believe, that the charter has been violated, it may be lawful for Congress to direct, or the President to order, a *scire facias* to be sued out of the circuit court of the district of Pennsylvania, in the name of the United States, calling on the said corporation to show cause wherefore the charter hereby granted shall not be declared forfeited."

But if there ever had been a well-founded doubt as to the true and fair construction of this reserved power of the House, the committee did suppose it had been long since yielded.

In 1818, Mr. Spencer, of New York, offered to the House of Representatives a resolution providing for the appointment of a committee to inspect the books, and examine into the proceedings of the bank. In the debate to which that resolution gave rise, the opinions now entertained by your committee were well expressed by many distinguished gentlemen. For presenting short extracts from one of the speeches then made, no apology, it is supposed, will be needed. Mr. Lowndes said he had no "*apprehension* of defect of power in the House to prosecute the inquiry in the terms proposed. He had *no doubt* of the power of the House, if the public interest required it, to direct a committee to make such a report. The nation, said he, has a deep interest in the conduct and management of the bank. Our duty to the people whom we represent, the nation's interest, as owners of a large portion of the stock, its interest in the revenues being wholly payable in the notes of the bank, will justify a constant and vigilant attention to its proceedings. If there had been *a doubt whether the conduct of the bank had been* PROPER OR NOT, *the House was fully justified in investigating into the facts, and inquiring whether* ABUSES *had been committed or not.* He would vote for any inquiry, in its broadest shape."

The resolution of Mr. Spencer was adopted, and a committee appointed, who visited the principal bank at Philadelphia, and some of its branches. They had free, unrestrained access to the books and papers of the bank. They were furnished by the officers with such extracts and copies from the books and papers as they called for. They summoned before them the directors and officers of the bank, and examined them, on oath, touching their conduct and proceedings. And the committee made to the House, on the 16th January, 1819, an elaborate report, from which we learn that their inquiries had been chiefly directed "*to the* GENERAL *management of the bank, and the conduct of its officers.*" The transactions of private citizens with the bank were then freely and fully examined. Individual transactions of the president and directors of the bank, in the purchase of its stock, were fully investigated, and those officers sworn and required to testify before the committee. Though deeply affected, personally and officially, by these developments, they never hesitated or objected to obey the process, or to give their testimony.

The names of the borrowers from the bank were published without scruple, with the amount of money due from each, whenever, and not otherwise, such a publication was deemed *necessary* to illustrate the improper conduct or maladministration of its officers.

This precedent, to which the committee of 1832 strictly conformed, is entitled to high respect from the eminent character of those by whom it was established; and who have justly enjoyed high reputations for purity of purpose and distinguished attainments.

If any additional reason for deference to this contemporaneous construction of the twenty-third section of the charter be necessary, it may be found in the fact that the directors of the bank in 1819 themselves assented to it. They conceded to the committee of the House the right to inspect *all* their books and papers in such manner as that committee thought just and proper. Besides, those who now have the management of the bank, in 1832, without question of right, without hesitation, without protest, produced, for the inspection of the committee of the House, all their books, papers, correspondence, and accounts, and appeared when summoned, and testified on oath touching the transactions of the institution under their control.

With these preliminary observations, for which it is believed ample apology, if any be required, will be found in the subsequent portion of this report, the committee will proceed, with a brief analysis of their proceedings, in the execution of the duties devolved on them, showing the unexpected obstacles interposed by the managers of the bank to the progress of the examination, and their repeated refusals, in violation of their charter, and in contempt of the authority of the laws and of the House of Representatives, to permit their books or papers to be inspected, or their proceedings to be examined.

The purposes for which your committee were appointed are stated so distinctly in the resolution of the House, that they have experienced no embarrassment in deciding

on the character of the duties imposed. They were required—

1st. To ascertain, if practicable, the causes of the commercial embarrassment and distress complained of by numerous citizens of the United States in sundry memorials which have been presented to Congress at the present session, and whether the bank has had any agency, through its management, or money, in producing the existing pressure.

2d. To inquire whether the charter of the Bank of the United States has been violated, and what corruptions and abuses have existed in its management.

3d. To examine whether the bank has used its corporate power or money to control the press, to interfere in politics, or influence elections.

The powers designed to be conferred on the committee, if they could have been exercised, are adequate to the performance of the duties enjoined: they were authorized to send for persons and papers; to summon and examine witnesses on oath: to visit, if necessary, the principal bank and its branches; and to inspect the books, correspondence, accounts, and other papers connected with its management. Such are the duties and powers of your committee, conferred on them by the House with extraordinary unanimity, and which your committee felt bound to regard as consistent with the chartered rights of the corporators and their debtors.

Under a deep sense of respectful obedience to the decision of the House of Representatives thus solemnly expressed, and feeling that they had no right to question its justice or propriety, your committee proceeded to Philadelphia on the 22d of April, to commence the performance of their duties.

On the 23d of April, their chairman addressed to the president of the bank a communication, enclosing a copy of the resolution of the House of Representatives, and notifying him of the readiness of the committee to visit the bank on the ensuing day, at any hour agreeable to him. In reply, the president informed the committee that the papers thus received should be submitted to the board of directors at a special meeting to be called for that purpose. It appears in the journal of the proceedings of the committee, herewith presented to the House, that this was done, and that the directors appointed a committee of seven of their board to receive the committee of the House of Representatives, and to offer for their inspection such books and papers of the bank as may be necessary to exhibit the proceedings of the corporation according to the requirement of the charter. In the letter of John Sergeant, Esq., as chairman of the committee of directors, communicating the proceedings of the board, he says that he was directed to inform the chairman of this committee that the committee of the directors "will immediately direct the necessary arrangements to be made for the accommodation of the committee of the House of Representatives," and would attend at the bank to receive them the next day at 11 o'clock. Your committee attended, and were received by the committee of directors.

Up to this period, nothing had occurred to justify the belief that a disposition was felt, on the part of the managers of the bank, to embarrass the proceedings of the committee, or have them conducted differently from those of the two preceding committees of investigation. On assembling, however, the next morning, at the bank, they found the room which had been offered for their accommodation preoccupied by the committee of the board, with the president of the bank as an *ex officio* member, claiming the right to be present at the investigations and examinations of this committee. This proceeding the committee were not prepared to expect. When the appointment of the committee of seven was first made, it was supposed that that measure, however designed, was not well calculated to facilitate the examination.

The officers of the bank were believed to be the most appropriate agents of the board of directors to exhibit their books and papers. By them the entries in the books are made, and by them such entries are most readily explained. It is their duty, too, to be daily at the banking-house, and on that account they could assist in the examination more readily than the committee of directors.

These objections to the special agents of the board were felt and expressed, but they were waived, and no diposition had been manifested, or felt by your committee, to conduct the examination in any manner not entirely acceptable to the board.

Under these circumstances, your committee did think that a decent respect for their rights and privileges and much more for the dignity of that body from which all their powers were derived, might have induced the committee of directors to forbear to make them feel an entire want of control over their own room. With a previous determination to be present when their books were to be inspected, they could have waited to avow it until these books were called for, and the attempt made to inspect them in their absence. These circumstances are now reviewed, because they then excited an apprehension, which the sequel formed into conviction, that this committee of directors had been appointed to supervise the acts and doings of your committee, and to limit and restrain their proceedings, not according to the directions contained in the resolution of the House, but the will and judgment of the board of directors. Your committee have chosen to ascribe this claim of the committee of directors to sit conjointly with them, to the desire to prevent them from making use of the books and papers for some of the purposes pointed out by the resolution of the House. They are sensible that this claim to be present at all examinations, avowed prematurely, and subsequently persisted in with peculiar pertinacity, could be attributed to very different motives; but respect for themselves, and respect for the gentlemen who composed the committee of directors, utterly forbids the ascription to them of a feeling which would merit compassion and contempt much more than resentment.

This novel position, voluntarily and deliberately taken by the committee of the directors, predicated on an idea of equality of rights with your committee, under your resolution, rendered it probable, and in some measure necessary, that your committee should express its opinions of the relative rights of the corporation and the House of Representatives. To avoid all misunderstanding and future misrepresentations, it was desirable that each question should be decided separately. Contemplating an extended investigation, but unwilling that an apprehension should exist of improper disclosures being made of the transactions of the bank and its customers, your committee, following the example of the committee of 1832, adopted a resolution declaring that their proceedings should be confidential, until otherwise ordered by the committee, and also a resolution that the committee would conduct its investigations "without the presence of any person not required or invited to attend." A copy of these resolutions was furnished to the committee of directors, in the hope that the exclusive control of a room at the bank, during its hours of business, would thereafter be conceded to your committee, while the claim of the committee of directors to be present when their books were submitted for inspection, should be postponed for decision, when the books were called for and produced by them.

On the 28th ultimo, this committee assembled at the banking-house, and again found the room they expected to find set apart for their use, preoccupied by the committee of directors, and others, officers of the bank; and, instead of such assurances as they had a right to expect, they received copies of two resolutions adopted by the

board of directors, in which they were given to understand that their continued occupation of the room must be considered a favor, and not a matter of right; and in which the board indulge in unjust commentaries on the resolution of the House of Representatives, and intimate an apprehension that your committee design to make their examinations secret, partial, unjust, oppressive, and contrary to common right.

When this communication had been read, your committee adjourned to meet at their own chamber, at the North American hotel. Notwithstanding all that had occurred, the correspondence with the committee of directors was continued. If, in so doing, an error was committed, let it be imputed to the belief that great forbearance well became the committee of the immediate representatives of the people.

When it was thus doubtful whether a room could be obtained in the banking-house, without conditions being attached derogatory to the rights and dignity of the House, and a concession in advance of a claim set up by the bank, which might seriously incommode your committee in their business, they determined to execute your resolution, if practicable, without intruding on the directors of the bank; they, therefore, required of the president and directors, in writing, to submit for the inspection of the committee, at their committee-room, on the 3d day of May, certain books and papers of the bank, which might have been thus produced without interruption to the ordinary business of the bank. The requisition, in terms, implied the presence of the directors or their committee.

On the day named, the board addressed a written communication to the committee, declaring "that they cannot comply with that part of the resolution of the committee of investigation which requires that certain books of the bank be sent to the North American hotel this day, at 11 o'clock."

Your committee are of opinion that this refusal of the board of directors to submit the books of the bank to the inspection of your committee, is a violation of the bank charter, and a contempt of the laws and authority of the House of Representatives.

The reasons for this opinion need not be here repeated or enlarged.

It has been maintained, and is insisted, that the right to inspect the books of the bank carries with it the power to perform that office out of the banking-house, if it cannot be done conveniently and effectually therein; and your committee cannot perceive that just ground of complaint exists against a claim of power, in a committee of either House of Congress, which, by the laws, and with a wise regard to the public interest, is conceded to the judicial tribunals of both the Federal and State Governments.

The facts already stated demonstrate that a room could not be procured in the bank for the use of the committee, without a concession not to be recalled, which would have made your committee dependent on the courtesy of the directors of the bank at every step of their inquiry; and the various communications received from the directors and their committee, annexed to this report, will fully corroborate this statement.

Having failed to accomplish the object of procuring the books of the bank for inspection at their committee room, your committee felt it to be their duty to demand their submission for that purpose, at the bank, of the president and cashier of the bank, the usual and general agents of the corporation. For that purpose, on the 5th day of May, having apprized the committee of directors of their intention, at one o'clock they repaired to the bank, and there required the president and cashier, each of them respectively, to produce certain of the books of the bank, for inspection of the committee. This was refused by each of those officers, for reasons stated in writing, and to be found in the appendix to this report.

In this refusal, your committee believe there was a substantial violation of the bank charter, and a contempt against the authority of the House committed.

They are of opinion that your committee were under no obligation of right to recognise any agent of the bank other than those generally known as such, and make their duty and right to inspect the books depend on the convenience or caprice of such deputation.

If such be the fact, then the examinations of the bank will, in all cases, depend on the disposition of the directors to have their proceedings examined.

Having been thus denied by the officers of the bank, and having been informed by the directors that they were not aware of having declined to furnish a room for the exclusive use of the committee, your committee, sincerely desirous to meet the wishes and directions of the House, believed it to be their duty to seek another interview with the committee of directors, and by arrangement met the committee of the board at the bank, on the 7th day of May, at an hour fixed by themselves.

Your committee then and there, in writing, required the committee of the board to produce to your committee, for inspection, certain books and papers of the bank, to enable your committee to inquire into the truth of representations made by the Government directors to the President of the United States and to Congress, and to ascertain whether the board of directors had violated the charter of the bank, by authorizing the exercise of illegal powers by their committees or officers, and whether the bank had any agency, through its management or money, in producing the present pressure, or has used its corporate power or money to control the press, to interfere in politics, or influence elections.

Without giving a specific answer to these calls for books and papers, the committee of directors presented a written communication, which was said to be "indicative of the mode of proceeding deemed right by the bank."

The committee of the board, in that communication, express the opinion, that the inquiry can only be rightfully extended to alleged violations of the charter, and deny, virtually, the right of the House of Representatives to authorize the inquiries required in the resolution.

They also required of the committee of investigation, "when they asked for books and papers, to state specifically, in writing, the purposes for which they are proposed to be inspected; and if it be to establish a violation of the charter, then to state specifically, in writing, what are the alleged or supposed violations of the charter to which the evidence is alleged to be applicable."

To this extraordinary requirement, made on the supposition that your committee were charged with the duty of crimination, or prosecution for criminal offence, and implying a right on the part of the directors to determine for what purposes the inspection should be made, and what books or papers should be submitted to inspection, your committee replied that they were not charged with the duty of criminating the bank, its directors, or others, but simply to inquire, amongst other things, whether any prosecution, in legal form, should be instituted; and from the nature of their duties, and the instructions of the House of Representatives, they were not bound to state specifically, in writing, any charges against the bank, or any special purpose for which they required the production of the books and papers for inspection.

A specific answer was requested to the calls which had been made.

The committee of the board, after deliberation, made a communication to your committee, in writing, in which they announced their purpose to adhere to their resolution, and refused to submit the books and papers of the bank required by your committee to be produced for their inspection.

These calls were made in the bank, and in the presence

of the committee of the board, and then and there a compliance with them was refused. Not feeling authorized to regard this unexpected and unequivocal refusal as the act of the board of directors, your committee submitted the proceedings of their committee to the board, and they were, by the board, "fully approved and sanctioned."

In this act of refusal, which nothing that had occurred had prepared them to anticipate, your committee are of opinion that the charter of the bank was violated, and a contempt of the authority of the House of Representatives committed.

Your committee, acting under the instructions of the House of Representatives, without power to modify or enlarge them, charged to inquire, and not authorized to accuse or to arraign, except in their report to the House itself; armed with but the limited authority of a committee, unauthorized to punish, were necessarily compelled to the conclusion that, in the face of the obstructions already detailed, they could not efficiently prosecute the inquiries with which they were charged, without the aid of the power of the House of Representatives.

Anxious, however, to perform their duty without complaint to the House, and in conformity with the proceedings of the committees of investigation of 1819 and 1832, your committee called on the bank, in a series of resolutions, to furnish statements and certain extracts and copies from their books and papers, which, in the opinion of your committee, were all intimately connected with their duties, and many of them indispensable to afford to the House of Representatives the information which they had directed your committee to obtain.

The first of these was responded to by the committee of directors, and the information furnished. Though useful, it was comparatively unimportant.

The board of directors, after deliberation, refused to comply with the other calls, for reasons which will be found in their resolution in the appendix, and which reasons deserve examination, as manifesting the deliberate purpose of the directors to resist all attempts to examine into the proceedings of the corporation in the latitude required by your resolution.

They say that the board of directors do not feel themselves at liberty to comply with the requirement of the committee of investigation, because "part" of the copies called for "relate to matters over which the board have no control."

This reason, it is plain, cannot have had much weight in producing the decision of the board. If only a part of the information desired was beyond the control of the board, that fact could have been stated, and this committee would have cheerfully received the residue

2d. The board say they cannot comply, because it would be impossible for them to do so "within any reasonable time, having ascertained, by a careful examination, that the copies and statements called for by the resolutions of the 29th ultimo alone, would require the uninterrupted labor of two clerks for at least ten months."

This reason, it is also fair to presume, could not have materially influenced the decision of the board. If, in truth, an *entire* compliance with all the resolutions would require great labor, still that did not justify the refusal to comply with any one of them. Besides, the whole objection could have been obviated by the employment of more clerks than two, the compensation to whom, if paid either by the bank or this committee, would have been well expended in gratifying the requirements of the House of Representatives.

3d. The board say they cannot "comply, inasmuch as, in respect to a part of the papers called for, the effect would be the same as the surrender of their books and papers to a secret and *ex parte* examination."

Who can read this last reason for refusing, given by the directors, and fail to perceive that this committee is justified in declaring that, without the aid of *compulsory process*, they cannot obey the directions of the House? If extracts from their own books, made by their own clerks, will not be furnished, because they *might* be used to conduct an *ex parte* examination, what benefit could this committee expect to derive by access to the books themselves? Permission to take extracts for themselves could, and probably would, be denied, for the same reasons; and a committee of the House, without power to compel obedience to its demands, would have power to make no use of the books which was not approved by the directors themselves. And the House will be at no loss to determine what latitude they would be willing to give their inquiries. And without authentic extracts, such as were unhesitatingly furnished by the bank to both the former committees of investigation, your committee could very imperfectly convey to the House the grounds of their conclusions, or the results of their inspections and examinations.

In what condition, then, is your committee placed? The House have commanded them to inquire "what corruptions and abuses have existed in the management of the bank," "whether it has used its corporate power, or money, to interfere in politics, or influence elections."

To do this, they have attempted to use the only means that can, by possibility, enable them to fulfil this duty; and they are refused by the directors access to those means which are in their custody, and which, by their charter, they are bound to furnish; because, say they, the inquiry this committee have been charged to make, "can only be rightfully extended to alleged violations of the charter." And even these violations of charter are not to be inquired of until the board is furnished with "a specification of all the charges intended to be inquired into." Should supposed violations of charter be specifically charged, then the directors are to decide whether the facts, if true as stated, would amount to technical violations of charter; and then, and not till then, will your committee be permitted to "proceed with them in order, as stated." It must be said that these pretences, by which the bank would justify its bold disregard of the provisions of its charter, are, in themselves, derogatory to the dignity, and contemptuous to the authority of the House, to which it, in part, owes its being.

The committee believe that these proceedings of the bank directors, denying vital and essential powers to the two Houses of Congress, and asserting, in effect, a paramount and controlling authority over both, in executing a power devised as a check upon the bank itself, would justify a more extended comment. But confiding in the disposition of the House to maintain its own rights and dignity, and to sustain your committee in the faithful discharge of their duty, they present, as a part of this report, the various resolutions adopted by your committee, with those received from the agents of the bank, as an appendix, declaratory of the powers believed to be possessed, and the purposes of your committee.

They believe that these resolutions will of themselves vindicate their conduct and proceedings from all those imputations which are to be found in the various communications of the directors, and their committee, and will serve to show that they have afforded no justification whatever for the extraordinary position ultimately taken by the committee of directors and the board; but that their determination not to permit any conduct of theirs, not involving breach of charter, to be investigated, must have been entertained long before it was made known to your committee, and that it was not communicated until every other means of preventing the examination had proved unavailing. But for this conduct, which your committee cannot regard as distinguished by frankness and candor, the absence of your committee from their duties in the House would have been of much shorter continuance.

Believing they had now exhausted, in their efforts to

execute the duty devolved upon them, all reasonable means depending solely upon the provisions of the bank charter, to obtain the inspection of the books of this corporation, your committee were at last reluctantly compelled to resort to the subpœnas which had been furnished to them under the seal of this House, and attested by its Clerk. They, thereby, on the 9th instant, directed the marshal of the eastern district of Pennsylvania to summon Nicholas Biddle, president, and thirteen other persons, directors of the bank, to attend at their committee room, on the next day at twelve o'clock at noon, to testify concerning the matters of which your committee were authorized to inquire, and to bring with them certain books therein named for inspection. The marshal served the summons in due form of law, and at the time appointed the persons therein named appeared before the committee, and presented a written communication signed by each of them, as the answer of each to the requirements of the subpœna. In this paper they declare "that they do not produce the books required, because they are not in the custody of either of us, but, as has been heretofore stated, of the board," and add, "considering that, as corporators and as directors, we are parties to the proceeding, we do not consider ourselves bound to testify, and therefore respectfully decline to do so."

Your committee will not dwell long to answer these technical excuses for this contempt of the lawful mandate of the House. They are to be found at large in the written document above referred to. Most of them, it is believed, have been already satisfactorily answered. The two novel excuses herein set forth cannot but be condemned as insufficient. The first is founded on a very refined distinction between the power of the directors as persons and as corporators. The same persons have and have not power to submit the books. As corporators, the custody of the books is in them; but as individuals, although collectively assembled, the same books are not under their control. Thus, by an attenuated technicality, the lawful authority of the House is to be defied. If, in one room of the bank, they must be esteemed as "individual citizens," who may lawfully disregard the *subpœna duces tecum*, because they have not the book demanded; if, in another room of the same house, by a transmigration not known to heathen philosophy, their identity is gone; they have become mere ideal creatures, on which not even a *subpœna ad testificandum* can be served. To make this excuse still more extraordinary, let it be remembered that seven of the gentlemen by whom it is offered had been appointed by the board of directors to exhibit the books of the bank for inspection, and of course must have had the right to that exclusive possession for that purpose.

The reason assigned for the refusal to be sworn is parallel with that which has just been considered. They claim, that, as corporators and directors, they are parties to the proceedings of the House, and therefore not bound to give testimony. It is a humane rule to be found in the criminal law, which declares that no man shall be compelled to criminate himself, and one which this committee would be unwilling, under any circumstances, to deny; but your committee are not aware of any principle of evidence which will excuse a person for refusing to give testimony, simply because it may subject him to a civil action.

There are provisions in the bank charter making the directors liable to a civil suit if proved to have participated in certain transactions therein mentioned. But it ought not to be supposed that any thing can be found on the books of the bank that would subject the directors to a criminal prosecution. Even if the latter supposition be not entirely without foundation, still it is insisted that a witness called on to testify, must do so, unless the court, or other tribunal, before which he appears, shall adjudge that he is interested. That question the witness cannot be permitted to decide for himself, otherwise evidence might be withheld without good cause. As to the supposition that the directors, or the corporation under their control, are to be considered parties to the inquest this committee was directed to institute, it has already been answered in this report, and needs no further reply. If the inquest had been prosecuted, and had satisfied Congress or the President that a *scire facias* ought to issue, then, and not till then, could the bank directors become parties to the proceedings, and, under that principle, attempt to conceal transactions known only to themselves; and even then their books might be used as evidence against them. Justice requires us to add, that the directors, while they protested against our right to examine them, declared they had no knowledge, which, if a necessary regard to their duties, and the rights of others, permitted, they would not willingly expose without reserve.

Under such circumstances, it is to be regretted that they have not imitated the course of the directors of 1819 and 1832, by waiving their supposed technical rights, and inviting an unrestrained examination of their proceedings. Such conduct could not but have gained public approbation; and, it is humbly conceived, could not have been reasonably objected to by any persons having business with the institution. If such had been the course of the directors, the committee hope to be pardoned for saying it was their purpose to have endeavored to have performed the duties which had been enjoined, thoroughly, impartially, and with a rigid adherence to the immutable principles of truth and justice.

Thus, your committee conclude, the just power and authority of the House of Representatives have been set at naught, defied, and contemned.

Thus the charter of the Bank of the United States has been deliberately violated, by repeated refusals of the directors of that corporation to submit their books and papers to the inspection of this committee.

Thus have the just expectations of the House, and of their constituents, been disappointed, and all means of obtaining the best and most accurate information concerning the operations of a controlling moneyed institution, been cut off and denied.

It remains for the House and the country to decide how far this conduct of that directory has been dictated by their solumn duty, as declared, to protect the interests of others committed specially to their protection; how far it conforms to those principles of action which are based on conscious integrity and uprightness of purpose, which defies scrutiny, and invites investigation; and how far it shall be received as a plea of guilty to the high misdemeanors which they insist have been charged against the corporation of which they have the management and control.

These grave questions, with others growing out of the transactions and proceedings, are left to be decided by the House of Representatives.

To elicit those opinions, the following resolutions are most respectfully submitted:

1. *Resolved*, That, by the charter of the Bank of the United States, the right was expressly reserved to either House of Congress, by the appointment of a committee, to inspect the books, and to examine into the proceedings of the said bank, as well as to ascertain if at any time it had violated its charter.

2. *Resolved*, That the resolution of the House of Representatives, passed on the 4th of April, 1834, for the appointment of a committee, with full powers to make the investigations embraced in said resolution, was in accordance with the provisions of the charter of said bank and the power of this House.

3. *Resolved*, That the president and board of directors of the Bank of the United States, by refusing to submit for inspection the books and papers of the bank, as called

for by the committee of the House of Representatives, have contemned the legitimate authority of the House, asserting for themselves powers and privileges not contemplated by the framers of their charter, nor in fairness deducible from any of the terms or provisions of that instrument.

4. *Resolved*, That either House of Congress has the right to *compel* the production of any such books or papers as have been called for by their committee, and also to *compel* said president and directors to testify to such interrogatories as were necessary to a full and perfect understanding of the proceedings of the bank at any period within the term of its existence.

5. *Resolved*, That the Speaker of this House do issue his warrant to the Sergeant-at-Arms, to arrest Nicholas Biddle, president, Manuel Eyre, Lawrence Lewis, Ambrose White, Daniel W. Coxe, John Holmes, Charles Chauncey, John Goddard, John R. Neff, William Platt, Matthew Newkirk, James C. Fisher, John S. Henry, and John Sergeant, directors of the Bank of the United States, and bring them to the bar of this House, to answer for their contempt of its lawful authority.

House of Representatives, *May* 22, 1834.

Mr. Everett, from the minority of the committee appointed to investigate the affairs of the Bank of the United States, submitted the following report:

The undersigned members of the committee for investigating the affairs of the Bank of the United States, having differed from their colleagues as to the extent of the powers of the committee, and the mode of pursuing the investigation, beg leave to submit the grounds of this difference, and their reasons for not concurring in the report of the majority of the committee.

The twenty-third section of the law, approved on the 10th of April, 1816, (commonly called the bank charter,) makes the following provision: "It shall, at all times, be lawful for a committee of either House of Congress, appointed for that purpose, to inspect the books, and to examine into the proceedings of the corporation hereby created, and to report whether the provisions of this charter have been, by the same, violated or not." This provision is, in terms, an express grant of power to either House of Congress; and, consequently, but for this grant, neither House would have possessed the power. To suppose that either House of Congress would have possessed the power, although the charter had been silent on the subject, is to suppose that so much of the twenty-third section of the charter as gives the power, is mere surplusage—an unauthorized and inadmissible supposition.

If the power reserved in the twenty-third section had been already possessed by either House of Congress, it must have been in virtue of its general authority to institute inquiries, and to send for persons and papers. But had the Congress who granted the charter understood that this authority to send for persons and papers extended to the inspection of the books of the banks, they could not have deemed it necessary to provide that it should be lawful, at any time, for either House of Congress to appoint a committee for such inspection.

The resolution passed on the 4th of April last, under which the committee of investigation was appointed, is expressed in the following terms:

"*Resolved*, That, for the purpose of ascertaining, as far as practicable, the cause of the commercial distress and embarrassment complained of by numerous citizens of the United States, in sundry memorials which have been presented to Congress at the present session, and of inquiring whether the charter of the Bank of the United States has been violated; and, also, what corruptions and abuses have existed in its management; whether it has used its corporate power or money to control the press, to interfere in politics, or influence elections; or whether it has had any agency, through its management or money, in producing the existing pressure, a select committee be appointed, to inspect the books, and examine into the proceedings of the said bank, who shall report whether the provisions of the charter have been violated or not; and, also, what abuses, corruptions, or malpractices have existed in the management of said bank; and that the said committee be authorized to send for persons and papers, and to summon and examine witnesses on oath, and to examine into the affairs of the said bank and branches; and they are further authorized to visit the principal bank, or any of its branches, for the purpose of inspecting the books, correspondence, accounts, and other papers connected with its management or business; and that the said committee be required to report the result of such investigation, together with the evidence they may take, at as early a day as possible."

The committee thus appointed is clothed with the power granted to either House of Congress, by the twenty-third section of the charter, the same being given to it by the express words of the resolution, which authorizes it to "inspect the books and examine into the proceedings of the said bank," and "report whether the provisions of the charter have been violated or not."

Had the resolution stopped here, its interpretation would have been easy. It would have been (and would so have necessarily been understood) a resolution creating a committee under the power granted by the twenty-third section of the charter, and for the precise objects, and no other, therein provided for. But the resolution of the House goes much further. It purports to authorize the committee to engage in a much wider range of inquiry than the violation of the charter. It declares the objects of investigation to be three-fold, viz. 1st, The causes of the commercial embarrassment and distress alleged to exist; 2d, Violations of the charter; 3d, Corruptions and abuses in the management of the bank, of which several are alluded to in very general and comprehensive terms, as will be perceived by recurrence to the resolution just quoted. Of these three objects, the second only is the one on which a committee, raised in pursuance of the twenty-third section of the charter, is authorized to report.

As the resolution of the House enumerates objects of inquiry not named in the charter, so it specifies means of attaining information not provided for in that law. It authorizes the committee "to send for persons and papers, and to summon and examine witnesses on oath, and to examine into the affairs of the said bank and branches."

The point of chief question in this matter has been, what extension of the powers possessed by the committee, in virtue of the twenty-third section of the law, is effected by this additional detail of the objects to be investigated, and of the means for attaining knowledge concerning them.

The subscribers understand their colleagues (the majority of the committee) to claim, under the terms of the resolution, an unlimited power of inquiry after all the conceivable corruptions and malpractices of the bank, and of sending for the persons of its officers and directors, and for any and all of its books and papers, in order to ascertain whether any such corruptions and malpractices exist. The subscribers believe that no such power of general search is given to the committee by the resolution, and that it was not competent for either House of Congress to give it. In their difference of opinion from their brethren of the majority on this head, will be found the chief source of their dissent from most of the important measures proposed by the committee.

Before explaining their views more distinctly, they would observe, to avoid all misconception, that it is no part of their purpose to maintain that the power of the

committee is confined to an inquiry whether the charter of the bank has been violated. The undersigned believe it is competent for the House to inquire into any alleged abuse or corruption whatsoever, to the utmost latitude required by the public good, and authorized by the principles of justice and law. They believe that the committee of which they are members was authorized to make such inquiries. They believed, however, that these inquiries were to be conducted according to the charter, that is, according to law, and according to those general principles of equity and constitutional right which cannot be transcended, in virtue of any resolution of either House of Congress, and which the undersigned are unwilling to believe that either House of Congress could attempt or wish to transcend.

The undersigned have already, as they think, shown that the provision in the charter is a grant of power which would not otherwise have been possessed by either House. So far, therefore, is the general power of sending for persons and papers from enlarging the charter-power, that this latter is an addition to the power of sending for persons and papers. The power, therefore, possessed by the committee under the charter, and recited in the resolution, is not, and cannot be, extended or enlarged by any thing else in that resolution. No limitation imposed by the charter upon the inquiry which the committee is thereby authorized to make, or the mode of making it, can be removed by the general parliamentary power of the House to institute investigations and send for persons and papers. It would be an absurdity to make a charter-provision for extending the general powers of the House, and then to seek to enlarge the powers conveyed in that provision, by the addition of something else, supposed to belong to the general authority of the House.

In addition to this, it must be recollected that the charter is a contract proposed by the Government to the stockholders, and voluntarily entered into by them. This power of visitation, and of subjecting the books to inspection, is one of the conditions of the contract, onerous to the stockholders. To attempt to enlarge it by construction, is to attempt, contrary to the faith of the country, to interpolate new and oppressive conditions into the contract. The undersigned, therefore, maintain that a resolution of one House of Congress, passed in virtue of its general power of inquisition, cannot enlarge the specific provisions of the law. But they do not therefore hold that this committee could not, under the authority of the resolution of the House, inquire into any other matters than breaches of the charter. They maintain only that this is a power to be exercised agreeably to law and justice; that it is not an absolute inquisitorial power; that it does not authorize a committee of either House to prosecute a secret inquiry of indefinite character, after any and every abuse, probable or possible. It does not extend the right of inspecting the books, granted for one purpose alone, so as to authorize their inspection for purposes totally different. It does not put it in the power of a committee to issue warrants of general search, and compel the appearance of citizens, and the production of papers, not in proof or disproof of charges against third persons, by evidence of which they are the legal depositories, but in order to enable such a committee to find out by these papers whether those who bring them are not themselves guilty of misdemeanors. Such a power as this, the undersigned wholly reject as abhorrent to reason and justice; unknown to the constitution of this country; at war with its spirit and with its letter; and utterly repugnant to the public sentiment of the people. To claim such a power, is to claim for either House of Congress the right, in virtue of a resolution, of sending to the remotest corners of the Union for any number of persons, compelling them to attend a committee, with all their papers; to submit to be examined on oath; to exhibit those papers for inspection; and thus to enable such committee to find matter of fixing on such individuals the charge of gross, but previously unspecified, misdemeanors and corruptions.

It is not necessary for the undersigned to endeavor to define what are the limits of the powers of inquiry possessed by the Houses of Congress. It is sufficient for their present purposes to have shown (and the proposition is proved in its enunciation) what they are not and cannot be. It cannot be within the competence of a committee of the House to institute a general search, and compel the citizens on oath to purge themselves if innocent and criminate themselves if guilty; and bring with them their papers to be ransacked in a roving hunt for unspecified crimes. The constitution reserves to the people the right (a right inviolable without the reservation) "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." Of all unreasonable searches that can be imagined, none is more signally so than a general search into the papers possessed by a person, whether individual or corporate, with a view to find (if it should happen to exist) matter of crimination against that person. A general search for any purpose is unreasonable; for the object of criminating the individual searched, it would be at war with the first principles of justice, and, as exercised by a committee of the House of Representatives, one branch of a Legislature of limited constitutional jurisdiction, an enormous assumption of power. It would be unreasonable, because, as no man is beyond the possibility of doing wrong, the right to institute a general search, if it existed, would be a right of inquisition into the affairs of every individual in the community—a right too extravagant to be claimed by any Government pretending to be limited by law, and never exercised by any but those odious and arbitrary tribunals which are handed down to the undying execration of mankind. It would be at war with the first principles of justice, which, as a general rule, compel no man to criminate himself, directly or indirectly, nor to furnish the means of his own crimination. It would be an enormous assumption of power on the part of either House of Congress—a body whose jurisdiction does not extend to any considerable portion of the conceivable crimes and misdemeanors which such a search might, if they had been committed, bring out; and who can surely lay claim to no power of searching out matters, which, if the search be successful, are without its province, both of legislation and punishment.

It may be observed that, if the right of making such a search of the Bank of the United States be claimed in virtue of the general powers of inquiry possessed by the House, it extends to every State bank in the Union, as fully as to the Bank of the United States. The charter gives a power of visiting the corporation thereby created, and of course exclusively confined to the Bank of the United States. That power, as has been urged, can be applied only to the objects for which it is given, viz., to enable a committee to report "whether the provisions of the charter have been violated or not." But if we go further, and claim a right, under the general power of inquisition possessed by the House, to search the bank for objects not made subjects of search by the charter, then it is obvious that the corporators and directors of the Bank of the United States are no more amenable to such search in their persons, books, and papers, than the corporators or directors of any other bank, of any insurance office, trust company, turnpike, canal, railroad company, or any other private citizens. The right, therefore, claimed by the majority of the committee, if it transcend in the slightest degree the limitations of the charter, must flow from a claim of power which would bring within its grasp every corporation, every citizen, and every book and paper in the United States, and subject them, at any time, to a general search of a committee of either House of Congress.

Should it be contended that, as a great stockholder, the Government has a right to institute this search, the answer is obvious. The House of Representatives is not the Government; and the Government, as a stockholder, has no rights not possessed by the other stockholders, or to be exercised in any other way. In the contract between the Government and the stockholders, by which the bank was created a corporation of a character partly private and partly public, the Government reserved to itself all the powers which it thought were required to protect its interests as a stockholder, or which were needed in reference to any other relations of the bank to the country. To these reservations, the stockholders, by accepting the charter, assented. They cannot now be extended to the prejudice of the bank, without a violation of law and a breach of faith.

The undersigned are far from intending to charge their respected colleagues, from whom they differed with pain, with the design consciously to institute a search of this character into the affairs of the bank, but they felt obliged to dissent from a considerable portion of their measures, deeming them in effect (though certainly not so intended) to have all the essential characters of such a general and unlawful search. The justice of this remark will, as the undersigned think, abundantly appear, from a review of the principal measures adopted by the committee, which will now, for this reason, be briefly examined.

1. The first step taken was a call by the committee of investigation on the committee of directors, for "a list of the books of the bank, with an explanation of the purposes for which each is designed, and the names of the clerks to whose care and custody they are respectively committed." This was a step preliminary to the process by which the committee of investigation, in the judgment of the majority, could call for, and take into their possession, by a precept addressed to the clerks in the bank, any or all of the books of the institution in which the business transactions of the bank are entered by the said clerks. This list was furnished by the committee of the directors, with the statement, however, that the books were not in the custody of the clerks, but in the general custody of the board. In consequence of this statement, no attempt was made to obtain possession of the books by a demand of the clerks.

2. Of a similar character, but more objectionable, because tending more directly to the institution of a general search, and forming an immediate preparation for it, was the right, insisted on by the committee, of an exclusive occupation of the room in the banking-house, offered by the directors for their accommodation during the inspection of the books. The undersigned refer to the correspondence between the committee of investigation and the committee of the bank on this subject. They would only briefly observe, that a committee of seven had been appointed by the board of directors, to receive the committee of investigation, and submit for their inspection such books and papers of the bank as might be necessary to exhibit its proceedings according to the requirement of the charter. A room in the banking-house was, by this committee, offered for the accommodation of the committee of the House of Representatives. It appeared at a very early stage of the proceedings, in a conference between the two committees, that the committee of the directors proposed to exhibit their books in person to the comm ttee of investigation, expressing, at the same time, their expectation and readiness to "withdraw from the room whenever the committee of the House should see fit," in order to furnish the committee of the House the opportunity to deliberate, without the presence of any one, not required or invited by themselves to attend. This proposed manner of conducting the examination was regarded by the majority of the committee of the House of Representatives as inadmissible, and formed the subject of a correspondence between them and the committee of the directors. The committee of the House adopted two resolutions, by one of which they agreed that their proceedings should be confidential, unless otherwise ordered by the committee; and by the other, that no person should be present at the inspection of the books and examination of the proceedings of the bank, except those whose attendance might be required or permitted by the committee of investigation.

The first resolution was regarded merely as an understanding on the part of the committee of investigation, that no publicity would be given by them, until otherwise ordered, to the matters that might appear in the course of the examination. The undersigned assented to this resolution with the understanding of the parliamentary law, that the sittings of every committee are open, unless ordered to be secret by the House; and that it was not in the power of the present committee, by a vote of their own, either to shut their doors, or impose secrecy on any persons who might attend. But they assented to the injunction of confidence, in conformity with a usage which has prevailed in other committes of inquiry of the House, for their own convenience, as a rule binding on themselves, and with the express reservation that the adoption of this resolution should, in no degree, involve an assent to the principle asserted in the second. To that principle, viz: that no person should be permitted to attend during the inspection of the books of the bank, and the examination of its proceedings, whose presence was not required nor assented to by the board, the undersigned were strenuously opposed. It was asserted as a right on the part of the committee, and (as the undersigned supposed, and the committee of the directors of the bank appeared also to understand it) with an intention to enforce the right. In pursuance of this intention, (as the undersigned supposed,) the committee of investigation ceased to hold their meetings in the room set apart for them in the banking-house, as soon as they understood the committee of the directors of the bank to claim the right of being there present with their books during the inspection of the same. It is true that, by a subsequent resolution, the committee of the House of Representatives disclaimed having decided that they should, in point of fact, exclude the directors from the room during the inspection of the books; but they persevered in the assertion of the right to do so, as appears from the documents appended to this report.

This claim was regarded by the undersigned as being without foundation and objectionable. In the first place, as has been observed, they believed it to be contrary to the *lex parliamentaria* for a committee of inquiry, on its own authority, to claim the right of holding its sittings, except when deliberating and voting in secret. It can only be constituted a secret committee by express order of the House. Secondly, this principle involved the right of withdrawing the books of the bank from the custody of the directors, and taking them into the possession of the committee of investigation. This is a power not given by the charter, which, as far as the books are concerned, authorizes a committee only "to inspect the books." As the right thus reserved by the charter to Congress is not only one of the conditions of an agreement, but is in derogation of the rights and liberties of the citizen, and could not be claimed at common law, and its exercise at best, and under any circumstances, must be highly incommodious, and create a serious interruption of the business of the bank, it should be construed rather strictly than liberally, and not draw with it, by implication, any thing not necessary for its exercise. The entire confidence which the undersigned feel in the liberality and magnanimity of their colleagues so to conduct the inspection as to cause the least possible inconvenience to the officers of the bank, could not authorize

an acquiescence in a claim of right wholly to obstruct and bring to a stop the ordinary proceedings of the bank; in fact, to suspend the charter.

It was a claim to take the books out of the possession of the directors into the possession of the committee, to detain them as long as they pleased, to carry them whithersoever they pleased, (a right afterwards more distinctly asserted and attempted to be enforced,) and to put them to whatever use the committee, in their uncontrolled discretion, might think proper. The undersigned again repeat, that it derogates in no degree from the objectionable character of this claim, to urge that the books of the bank, thus taken from the possession of the directors, could have been put to no unworthy use by the committee of investigation. Such an idea could only suggest itself to be repudiated. It is sufficient objection that they would have been put out of the custody of those responsible to the stockholders for their safe-keeping. The most improper use to which the books, or any other property of an individual or a corporation, can be put, is, to take them away from their rightful owner and lawful guardian. I may think I can take better care of my neighbor's property than he does himself, but I may not therefore take it from him, and administer it, even for his own good; far less may I take it, without warrant of law, in order to extract from its unlawful use matter to be used, directly or by consequence, for his crimination. The books belong to the stockholders of the bank, and are, by them, intrusted to the directors. They do not belong to the House of Representatives, nor to any committee of that House; and a right to inspect them no more involves a right to take possession of them, than a right to count the money in the vaults involves a right to take possession of it. It is a case of frequent occurrence in the State banks, that committees are sent to visit them, and among other things, to count the specie in their vaults. Should such a committee claim the right of going into the vaults alone, and counting the money, without the presence of the directors of the bank, or their authorized agents, it would be thought a very unwarrantable claim; and no personal confidence, reposed in the honor and probity of the committee, would render such a claim at all the less unwarrantable.

But the attempt to fortify the right of taking possession of the books, by urging that, it its exercise, it would not have been abused, wholly fails, in the apprehension of the undersigned, because they deem that the use which was avowedly to be made of them, was the greatest possible abuse. It was intended to employ them for the purpose of a general search, not only to ascertain, in the most general form, whether the charter of the bank had been violated, but also what corruptions, abuses, and malpractices had taken place in its management; and this, by way of inquiry, among other things, whether a criminal prosecution, in legal form, should be instituted, (see resolution of committee of investigation of 7th of May,) in which prosecution the directors, called to submit the books, would have been the party implicated.

The undersigned believe that, in a land of constitutional liberty and law, it can need but little argument to show that a claim, on the part of a committee of either House of Congress, acting in virtue of the general parliamentary power of inquiry, to demand, as a matter of right, the production, and to take possession of the books and papers belonging to an individual or a corporation, in order to search therein for matter on which to found a criminal procedure against said individual or corporation, is a claim at once of the most unfounded and pernicious character. They confidently believe that no court of justice in the United States, or any other free country, has ever claimed such a power as a right, or attempted, in point of fact, to execute it. They have never heard of any statute which gives this power to any court or other tribunal; and they would deem the assumption of such a power, by either House of Congress, as an incident of the general powers of the House, and resting on the *lex parliamentaria*, as unwarrantable, and in the highest degree dangerous.

3. The committee having withdrawn from the occupation of the room in the banking-house, for the reason stated, adopted a resolution requiring the president and directors of the bank to submit certain of the books of the bank to the inspection of the committee, at their room in the North American hotel. (See doc. No. 25.) With this requisition the committee of the directors declined complying, for reasons which appear in their resolutions adopted May the 3d. (Document No. 30.) The undersigned regarded this resolution of the committee as open to the objections already urged against an *ex parte* inspection of the books, and to others peculiar to itself. By its terms, the president and directors are required to submit certain of their books to the inspection of the committee at the North American hotel. If, by the term *required*, nothing is to be understood but a *request*, with which the directors of the bank were at liberty to decline a compliance, they were of course free so to decline, and their doing so argues no contempt of the House. But the majority of the committee evidently regarded, as in some way obligatory, the demand for the production, at their hotel, of certain of the books of the bank. Such a demand the subscribers deemed to be unauthorized. If valid, in reference to the books named in the requisition, it was of course valid as to all the books of the bank and all its branches; which, by parity of right, the committee might have required to be brought to their lodgings, and there detained and used at their pleasure. The question whether (supposing them brought to the committee's room at the North American hotel) they should there be submitted in person by the directors, or inspected *ex parte* by the committee of investigation, was not distinctly raised. But considering that the committee ceased to hold their meetings at the banking-house, precisely because the directors insisted on their submitting the books for inspection in person, it appeared to the undersigned that, whether exercised or not, the right of an *ex parte* ispection was designed to be reserved, and that the inspection was required to be had at the private room of the committee, to enable the committee, if they deemed it expedient, to act on that reservation. All the objections, therefore, which lie to an *ex parte* inspection in the banking-house, hold with equal force to an *ex parte* inspection out of it.

In addition to this, the requisition of the books, to be carried away from the banking-house, appeared to the undersigned, for other reasons, of an inadmissible character. It was to take them away from the place where the important interests of the bank require them to be, and to be used. It was to expose them to the risks of transportation through the streets, and detention in private rooms, not constructed for the safe preservation of valuable papers. While it is the constant practice of individuals to deposite for safe-keeping valuable books and papers in the vaults of the bank, the bank was required to remove its own books and papers, containing the evidence of pecuniary transactions to the amount of several hundreds of millions of dollars annually, to the committee's room in the North American hotel, a public house of great resort in Philadelphia. The undersigned opposed this requisition, from the belief that it was totally beyond the authority of the House; and that they should have deeply regretted a compliance with it by the bank, which would have devolved on the committee the care and responsibility of a deposite so delicate and valuable.

By the 23d section of the charter, whenever a *scire facias* against the bank is sued out of the circuit court of Pennsylvania, it shall be "lawful for the court, in ex-

amining into the truth of the alleged violation of the charter to require the production of such of the books of the bank as it may deem necessary to the ascertainment of the controverted facts." This is the only case in which the contract between the Government and the stockholders authorizes a requisition of the books; and this cautious authority, granted by law to one of the high judicial tribunals of the country, on an examination into an alleged violation of the charter, to require the production of the books which it may deem necessary to the ascertainment of controverted facts, sufficiently disproves by exclusion, the grant of any similar or additional power of the same kind to any other tribunal. That the House of Representatives, independent of the charter, has a right, by one of its committees, to require the production of any or all of the books of the bank at the lodgings of said committee, or any where else, the undersigned cannot bring themselves to admit. At all events, as no authoritative form was given to the requisition, the directors, in respectfully declining to comply, are of course guilty of no contempt of the House.

4. After the directors of the bank had declined a compliance with the requisition for their books to be produced at the North American hotel, the committee of investigation, on the 5th of May, adopted a resolution (see document No. 32) that they would repair to the banking-house at 1 o'clock of that day, to inspect the books specified in the resolution of the 28th, and such others as they might require to be produced. A copy of this resolution was sent to the chairman of the committee of the directors, but reached him at his dwelling-house at a time when the committee of the directors was not in session, and a short time before the hour named in the resolution of the committee of investigation. He immediately informed the chairman of the committee of the House by letter, that it would be impracticable to reassemble the committee of directors in season to submit the books for inspection that day, but that they would be reassembled without unnecessary delay. The committee, however, deemed it expedient, for the purpose of making up an issue, to repair to the banking-house at the hour named, and then and there to call on the president and cashier of the bank to submit certain of their books to the committee. This accordingly took place, first, in the large hall of the banking-house, and then, by repetition, in the president's room. The president and cashier declined a compliance with this request, on the ground that they had, neither of them, the custody of nor control over the books and papers: the general custody of the same being with the board of directors, who had already apprized the committee of the House that they had placed them under the direction of the committee, to be by that committee submitted for inspection, and that they (the president and cashier) were, therefore, unable to comply with the demand of the committee of investigation. This demand, and the answer to it, were then reduced to writing, and will be found among the papers (Nos. 35, 36) appended to this report.

This proceeding was but a repetition, in a form a little varied, of the attempts before made to acquire the means of conducting the inspection of the books, apart from those to whom the directors had confided the duty of submitting them to the committee of the House of Representatives. It was avowedly intended only to make up, in another form, the issue which it was supposed would be created between the bank and the committee of investigation, by the failure of the committee to obtain the books thus required of the president and cashier. It was known to the committee of the House, that the directors, by an authentic act, of which a copy had been communicated, had placed the books at the disposal of the committee of the board, to be by them submitted in person for inspection. The said committee of the directors had twice positively made known their inability to depart from the instructions of the board in this respect. The committee of the House were apprized that the books asked for were not, under the instructions of the board, at the voluntary disposal of the president and cashier, and the demand made of these officers by the committee in person, at the bank, was not of the nature of a legal process to compel their production, supposing them to have been *de facto* in the keeping of the said officers. For these considerations, the undersigned opposed the personal demand for the production of the books now under consideration, as a measure which must, for the reason stated, prove ineffectual, unnecessary for making up the desired issue, and open to the objection of wearing a vexatious appearance. To make a third application for a voluntary submission of the books in a manner which it was known was deemed inadmissible, at the same time that no recourse was had to compulsory process, could not but have the effect, though certainly not so intended, of gratuitously throwing upon the directors the odium of repeated refusals of the requests of the committee of the House. However this may be, as the fact is undoubted that the directors had placed the books under the control of the committee of the board; as their right to do so is unquestionable; as the chairman of the committee of the directors had apprized the chairman of the committee of investigation that the former could not be reassembled at the very short notice given, but should be so, without unnecessary delay, to submit the books for inspection; as the books were not, in point of fact, in possession of the officers called on; the undersigned feel confident that, in respectfully declining to produce them, those officers were guilty of no contempt of the authority of the House.

5. But whatever difference of opinion might at the first have existed between the committee of the House and the committee of the directors, as to the propriety of permitting the latter to retain the custody of the books, and submit them in person to the committee of the House, further consideration appears to have led the committee of the House to admit the reasonableness of this mode of conducting the investigation, so far at least as to acquiesce in it—a consideration which exonerates the directors from any charge of contempt in the course hitherto pursued by them. Accordingly, without waiving their right to require the production of the books at their lodgings, they repaired again to the banking-house, to the room set apart for their accommodation, and required the production of certain of the books of the bank.

It will be observed that, up to this time, nothing had been arranged as to the mode of conducting the inspection beyond the single point, settled by the acquiescence of the committee of the House of Representatives, that the books should be submitted in person by the committee of the directors. No objects of inquiry had been announced by the committee of investigation further than they appear in the resolution of the House under which the committee was raised, and in the calls made for information as to a great amount and variety of matters, as appears from the resolutions in the appendix. The correspondence which had taken place between the committees had been confined almost exclusively to the single ground of the course deemed proper to be pursued by the committee to obtain possession of the books of the bank.

On the arrival of the committee at the banking-house, on the 7th of May, a call was made on the committee of the board, in pursuance of the following resolution:

May 7, 1834.

Resolved, That the committee will proceed to examine into the truth of the statement made by the Government directors to the President of the United States and to Congress, and for that purpose will this day call for the production, for inspection, of the minute-books contain-

ing the proceedings of the directors of the bank, and the expense-books and vouchers for expenses incurred.

As preliminary to a reply to this demand, the following paper was read by the chairman of the committee of the board:

May 7, 1834.

Whereas it appears, from the resolution of the House of Representatives of the United States appointing the committee of investigation, that two distinct inquiries were contemplated: one of them directed to ascertain whether the charter had been violated, and limited to the acts of the corporation; and the other so very general and indefinite, as to make it difficult, if not impossible, to say whether it has any limits at all, either as to the matters to be inquired into, or the mode of pursuing the inquiry; and whereas it appears, from calls made by the committee of investigation, that they have proposed a very wide range, embracing, among other things, an extensive examination of the acts, transactions, accounts, and letters of individuals, and thus instituting a kind of general search, which is the more objectionable, because, if it have any purpose at all, it must be to criminate those individuals as well as the bank; and if it have not this purpose, it is without any assignable object, and would be an injurious invasion of private interests; and whereas, under these circumstances, it is the duty of the committee, by all lawful means, to protect the rights and sacred confidence intrusted to their keeping, and to yield nothing by consent which cannot be legally demanded from them; and whereas, after careful and anxious consideration, they are of opinion that the inquiry can only be rightfully extended to alleged violations of the charter, and this inquiry ought to be conducted according to some certain principles and rules: therefore—

Resolved, That the committee of investigation be respectfully required, when they ask for books and papers, to state specifically, in writing, the purposes for which they are proposed to be inspected; and, if it be to establish a violation of the charter, then to state specifically, in writing, what are the alleged or supposed violations of charter to which the evidence is alleged or supposed to be applicable.

Resolved, That, in the opinion of this committee, it would very much conduce to the purposes of justice, as well as to the convenience of all concerned, if the committee of investigation would furnish a specification of all the charges intended to be inquired into, and proceed with them in order as stated.

The undersigned opposed the call above recited, made on the 7th May, for the production of books. They feel themselves, therefore, called upon to explain briefly the considerations which influenced them. The undersigned have already stated that they conceived the committee, of which they have the honor to be members, to be clothed with a twofold power, and to be competent, or rather required, by the order of the House, to act in a twofold capacity. They were a committee of visitation, appointed under the twenty-third section of the charter. As such, they were authorized to visit the bank, to inspect the books, and to examine into the proceedings of the bank, and report whether the charter had been violated. They were, also, a committee of inquiry into the causes of the present commercial embarrassment and pecuniary distress, and into the corruptions, abuses, and malpractices of the bank. In the former capacity, they had a right to inspect the books of the bank. They had this right by the charter, and would not have had it without the charter. In the latter capacity, they had no right to inspect the books, unless voluntarily submitted by the bank, because the charter does not give them that right for such purposes: The bank is obliged, by the charter, to submit its books to the inspection of a committee of visitation, authorized to report if the charter has been violated; and it is not bound to submit them to a committee of general inquest authorized to report on malpractices and corruptions. The right of inspection possessed by the committee, as a committee of visitation, cannot be used by it in its other capacity of a committee of general inquest and accusation, as an instrument of search after crimes and misdemeanors in general.

But the directors of the bank had been apprized, at the outset, by the resolution of the House of Representatives of the 4th of April, that the committee was of a two-fold character, as stated. That resolution distinctly enumerates, as objects of inquiry, not only violations of the charter, for which the books might be inspected, but various acts of mismanagement and corruption, for which they might not be inspected, unless voluntarily offered for that purpose. The committee of investigation had addressed various calls, by way of resolution, to the committee of the directors, touching matters concerning which the charter does not require the bank to submit its books for inspection. The call of the 7th of May, on the last visit to the banking-house, is for certain of the books of the banks, to enable the committee "to examine into the truth of the statement made by the Government directors to the President of the United States and to Congress." That statement embraces matters which neither are, nor are alleged to be, violations of the charter; and, consequently, in reference to which the directors are not required to submit their books for inspection.

Had it pleased the House of Representatives to create two committees—one of visitation, under the twenty-third section of the charter, and one of general inquiry, under the power of the House to send for persons and papers, these two committees would not have been authorized to amalgamate nor interchange each other's functions. The committee of charter-visitation would not have been authorized to engage in a general inquisition, nor would the committee of inquiry have been authorized to demand their books for inspection.

But to what avail has the charter limited the objects for which the books may be inspected, and protected the corporation, and those who transact business with it, from the annoyance and mischiefs of a general search, if a committee of visitation may be clothed with the functions of a committee of general inquiry; and, having got the books into their hands for one purpose authorized by the law, may use them for another purpose not authorized by law? It is plain that if this could be done, the limitation of the right of inspection would be illusory and worthless. In order to render the limitation efficient, the committee of the directors required of the committee of investigation to specify the objects for which they demanded the books. For some objects, the demand of the books was according to law; for other objects, not being bound by law to yield them, the directors were at liberty to withhold them, or to submit them, according to their discretion. They therefore needed a specification to enable them to discharge their duty under the charter, as well as to protect them in their rights; to enable them to distinguish, in the requisitions of the committee of investigation, how much was authoritative under the statute commanding obedience, and how much, not being authoritative, they were at liberty to concede or to withhold.

There was the more reason in insisting on this right to make the limitation on the inspection of their books available, because, as has heretofore been observed, the inspection itself is in derogation of the natural rights of the citizen, who ought not, under any circumstances, to be obliged to criminate himself. It pleased the Legislature, regarding the corporation as their own legal creation, to require them, when accused of violating the fundamental laws of their existence—the provisions of the charter—to submit their books to a committee authorized to report on that fact alone. But to transfer this limited

right of inspection to other committees for general powers of inquisition, and for a general purpose of enforcing self-crimination, is illegal and inequitable. To do this by indirection; to clothe a committee of inquiry with the powers of a committee of visitation, and thus to acquire a right to open the books for one object, and then to inspect them for another, would be to attempt to accomplish an end in itself unauthorized, by means peculiarly unwarrantable.

For these considerations, the undersigned regarded the directors as justified in requiring of the committee of the House a specification of the objects of their inquiry. The ground taken by the committee of the board is, as the House perceives, a ground of legal right, assumed by the directors under the circumstances of the case. This is the third occasion on which the bank has been visited by committees of the House. In the year 1818, a committee was appointed to examine the affairs of the bank, then in disorder. The committee thus appointed was, by the terms of the resolution, directed to report whether the charter had been violated, and the resolution consisted mainly of a specification of alleged violations. In executing their trust, however, the committee extended their inquiries to the general management of the bank, and examined its president, other officers, and directors, on oath. To this course of inquiry, the bank deemed it for its interest to submit. The undersigned are not aware that any resistance was made to the demands of the committee. On the contrary, their report closes with the observation, that "it is due to the officers of the bank at Philadelphia to state that every facility in their power was rendered in explaining the books, and assisting the researches of the committee." In one instance, in which an individual, a director of one of the offices, charged with malpractices, refused to testify, the committee observe that they did not insist on his answering, and that they examined him chiefly to enable him, if he pleased, to exculpate himself. This committee did not confine their examinations to the officers of the bank. They examined the teller of the Bank of North America, and perhaps other persons. This circumstance, and the others mentioned, sufficiently show that no question as to the extent of the powers of the committee was raised during the visitation; that the witnesses appeared voluntarily; that the bank deemed it for its interest to submit to the examination of the committee, in any form in which the committee thought proper to conduct it; and that, consequently, the whole investigation assumed the form of a parliamentary inquiry, conducted by the assent of the parties, and without any appeal to their rights.

The examination of 1832 assumed substantially the same character. The resolution under which the committee was raised, consisted, as originally moved, of a large detail of alleged abuses, several of which imported no violation of the charter. The House adopted an amendment proposed to this resolution by a member from Massachusetts, (Mr. Adams,) in the following terms: "*Resolved*, That a select committee be appointed to inspect the books, and examine into the proceedings of the bank, *and report thereon*, and to report whether the provisions of the charter have been violated or not." This phraseology appears to have been derived from the commencing words of the report of the committee of 1818, which is in the same terms, and not from the resolution by which that committee was created, and which provides that a select committee be appointed "to inspect the books, and examine into the proceedings of the bank, and report whether the provisions of its charter have been violated or not, and particularly to report" as to several matters, all, or nearly all of which, were alleged violations of the charter. The amendment offered by the member from Massachusetts, (Mr. Adams,) and adopted by the House, was offered on the ground that "the original resolution presented objects of inquiry not authorized by the charter of the bank, nor within the legitimate powers of the House." But as it directed the committee to report generally on the proceedings of the bank, as well as on violations of the charter, it was considered by its mover and by many of those who supported the amendment, as authorizing an inquiry extending beyond violations of the charter. The right to constitute an inquiry of this kind was put upon the ground that the bank was applying for a recharter, and could not reasonably decline it. At that time, as in 1818, neither House of Congress had assumed a hostile position to the bank. Its directors, as the event proved, felt that they could rely upon the National Legislature to do them justice against any efforts which might be made to impeach their character or arraign their conduct. Applicants for a recharter, they felt that they could not, with propriety, object to any latitude of inquiry which might be demanded by a House of Congress willing to grant a recharter, provided the result of the examination should be satisfactory. Accordingly the resolution, as amended, was understood to extend not merely to alleged violations of the charter, but to all alleged cases of official misconduct; and on the arrival of the committee in Philadelphia, the directors of the bank, instead of placing themselves upon their rights, ordered the president of the institution to submit all its books and papers to the unconditional inspection of the committee, and to yield himself to an unreserved examination. The inquiry was pushed into every matter of alleged abuse, where it was supposed the bank was most vulnerable. Nothing was spared; nothing was held back. Books and papers were submitted, and personal examinations on oath endured, although avowedly for the purpose of finding out, if it existed, matter of inculpation against the directors. The materials thus collected were spread before Congress and the people, and a majority of both Houses of Congress united in the passage of a bill for rechartering the bank.

The President declined giving effect to the will of Congress, and the bill failed to become a law. The whole influence of the Executive was exerted to the prejudice of the institution, and the voice of the administration press was raised against it, with a concert and vehemence rarely equalled.

Doubts of the safety of the public deposites were now suggested, and these doubts received some sanction from the message of the President at the opening of the second session of the last Congress. An Executive agent was appointed to investigate that subject, and the Committee of Ways and Means, of which a majority was composed of members friendly to the administration, engaged in the same inquiry. The agent and the committee reported in favor of the solvency of the bank, and the House of Representatives, by a majority unexampled on such a question, resolved that the public deposites could be safely continued in the Bank of the United States.

Notwithstanding this vote, the President took immediate measures to transfer the deposites to the State banks. The character of these measures is known to the House. The undersigned think themselves safe in saying that it was such as to cause the directors of the bank the greatest possible inconvenience and anxiety. They were regarded as men guilty of the most criminal malpractices, and justly obnoxious to the severest treatment which it was in the power of the Executive to inflict. To all that was officially done, was superadded an unbroken strain of denunciation from the Government press, and threats of a purpose to break those branches of the bank which were supposed to be feeble. At length, without previous authentic notice, the deposites were removed, a short time before the assembling of Congress. A majority of members had been elected to the House of Representatives, in part previous to the adoption of this

measure, who appeared disposed to sustain the President in the policy he had adopted. By this majority, resolutions were passed expressive of their opinion that the bank ought not to be rechartered, and that the deposites ought not to be restored. These resolutions were adopted after a protracted debate on the general merits of the controversy, in which, on the part of those who sustained the President, the most unwarrantable designs, and the most corrupt practices were freely ascribed to those intrusted with the direction of the bank.

It was under these circumstances that the commission of inquiry into the affairs of the bank was instituted. As far as that inquiry was of a character in which the bank was, by the charter, bound to co-operate by submitting its books for inspection, the directors have fully recognised their obligation to do so; but the undersigned confess they perceive nothing in the circumstances that preceded the inquiry which could furnish an inducement to the bank to go further than the law requires of them. By the Executive Government, and the majority of the House of Congress, their case had been adjudged. The laws which the wisdom of two former Congresses enacted for erecting United States banks, and of which every department of the Government, under every administration but the present, has recognised the validity, have been declared unconstitutional. The present inquiry was not needed to ascertain if the deposites should be removed; they were removed many months before. It was not needed to ascertain whether they could safely be restored; the House that instituted it has resolved that they ought not to be restored. The Secretary of the Treasury is left, without the instructions of the House, to deposite the public funds in any other bank he may please to select, but the House of Representatives has resolved that they ought not to be deposited in the Bank of the United States. Although the last Congress, by majorities of both Houses, decided that the bank ought to be re-chartered, and the next Congress may be of the same opinion, the present House of Representatives has resolved to the contrary, and, therefore, the inquiry was not needed to guide its judgment in the recharter of the bank. Various misdemeanors are imputed to those who direct the bank; but supposing their detection the object of the investigation, every principle of justice forbids a mode of inquiry, beginning and proceeding in self-crimination. The only other legitimate object which the undersigned can think of, is that of collecting information to guide the judgment of the House in the question of a new bank, to be established on the ruins of the present institution. The directors of the bank, in the opinion of the subscribers, may be safely expected, on all occasions, to do the duty of public-spirited men to their country: but no principle of public duty fairly calls upon them to go further than the law requires them, in making themselves the subjects of a criminatory inquisition, with a view to build up an institution to discharge that public trust to which they have been declared unfaithful, by those instituting the inquiry.

It is also to be recollected that two years had scarcely elapsed since the former inquiry, on which the directors of the bank had not attempted to impose any limitations; and that inquiry had resulted so entirely to the satisfaction of the two Houses, that they passed a bill for renewing the charter of the bank. It requires no words to show that such an examination must be highly inconvenient to the officers of the bank, and incommode them in the orderly discharge of their duties. Still graver inconvenience may be expected to result from the effect on the public mind, in reference to the bank, which may be produced by the recurrence of such visitations. In the progress of the controversy waged with the bank, a few new matters of detail may perhaps have been alleged against it since the report of the former committee, but many of the matters of general inculpation now brought forward are those sifted to the bottom by that committee, and none of them possess a novelty and importance furnishing, in the judgment of the undersigned, an equitable ground for a new investigation. Is there to be no end to visitations? The House has the undoubted right to institute them as often as it pleases—every year and every month; but if they are multiplied unreasonably, the directors of the bank, as it seems to the undersigned, are not to be blamed if at length they put themselves upon their rights, decline to become voluntary parties to these investigations, and submit to them only as far as the charter requires.

These considerations led the undersigned to the opinion that the committee of the directors of the bank were justified in the course adopted by them on this occasion. If, on a question of law so grave and delicate, the committee of the directors should have come to an erroneous conclusion, (which the undersigned, however, do not admit to be the case,) it would seem an undue severity to consider and to treat such error in judgment as a contempt of the authority of the House.

6. This reflection leads the undersigned to a few observations on the various calls for copies or portions of the books, statements, documents, abstracts, and other papers, which, at different times, were made on the bank by resolutions of the committee. These resolutions were numerous, and covered a wide range of inquiry of the most miscellaneous character. A portion of them are believed to call for documents, in whole or in part, already communicated to Congress and published; another portion relating to matters which could not be stated without great labor of compilation, and a resort to sources of knowledge not necessarily nor officially in the possession of the bank. Some of the calls referred to matters with respect to which no desire of concealment could, on any hypothesis, be imputed to the bank; others related to concerns (as the undersigned will presently show) involving the highest confidence of individuals, and not to be divulged, except under legal compulsion, without the grossest breach of faith.

The answer of the committee of the directors to these requisitions was in the following terms:

Resolved, That the board do not feel themselves at liberty to comply with the requirement of the resolutions of the committee of investigation of the 29th ult. and 1st inst., and do not think they are bound to do so, inasmuch as, in respect to a part of the papers called for, the effect would be the same as the surrender of their books and papers to a secret and *ex parte* examination, which they have already refused to consent to; and as to the other part, they relate to matters over which the board have no control; and if they could overcome these objections, and had the power over all the papers, still it would be impossible for them to comply within any reasonable time, having ascertained, by a careful examination, that the copies and statements called for by the resolutions of the 29th ult. alone, would require the uninterrupted labor of two clerks for at least ten months to make them out, and that the remaining resolutions, so far as they concern matters not beyond the reach of the board, would require great additional time, which they are not able exactly to compute, without causing what they fear would be an inconvenient delay to the committee of investigation; and they take it for granted that it would no more comport with the views of the committee of investigation to wait till so distant a period, than it would with the rights of the bank, to have such a burden imposed upon it.

If the application of the committee of the House be regarded, according to its terms, as a mere request, it was of course competent to the directors respectfully to decline a compliance with it. It can be no contempt of the House, nor even matter of complaint or ground of

prejudice, that any request, which is merely such, is respectfully declined by the party to which it is addressed. But the committee of the directors appear to have regarded it as a matter of duty, not to return a naked refusal to the requisition of the committee of investigation. The reasons of this refusal are stated, and they appear to the undersigned to be valid. Reference to the resolutions in the appendix will enable the House to judge of this matter.

The reasons, as has been seen, are, that to comply with a part of these resolutions would be, in effect, to copy or abstract an essential part of some of the books of the bank, in order to their being made the subjects of a private and *ex parte* examination; a measure so much the more objectionable, as it would add the inconvenience of preparing the copy to all the other evils incident to such inspection. Another portion of the calls related to matters of fact, in no way appearing on the books of the bank, and not to be ascertained but from sources of information no more accessible to the directors than to any other individual. These objections were, of themselves, particularly the first, decisive. In addition to this, it appeared, from a careful examination, instituted for that purpose, that the answers to the first series of calls could not be prepared without the uninterrupted labor of two clerks for at least ten months.

The undersigned are unwilling to take up the time of the House by a particular examination of each of the resolutions, but they feel themselves required to express their opinion of a portion of them. They will refer first to those which call for information touching the transactions of members of Congress with the Bank of the United States, and the correspondence of members of Congress with officers of the bank.

One of the resolutions alluded to is in the following terms:

"*Resolved*, That the president and directors of the bank be requested to furnish the committee with copies of all correspondence between the president of the bank or any of its officers, and members of Congress, *or of unanswered letters* received from any one of them since the first day of July, 1832, touching the renewal of the charter of the bank, the removal or restoration of the public deposites, or touching the business transactions of such members with said bank."

Another of the resolutions alluded to is in the following terms:

"*Resolved*, That the president and directors of the bank be requested to furnish this committee with a detailed statement of all loans made since the first of January, 1829, to individuals who then were, who have been since, and who now are, members of Congress, stating the amount of each loan, when the same was made, for what term the security was given, and the time when such security was received; and also the security which the bank now holds, and the amount now owing by any and each of such borrowers, or other persons for the benefit of such borrowers, at the bank, or either of the branches; and stating, also, the particulars of any such loans, which have been protested, or which are now under protest, and the names of the parties to any such debts; also the names, if any, of any such persons, whose notes have been renewed after the same had become due and not protested or renewed, with the names of individuals, parties to said renewals, whose notes were under protest at the time such renewals were made; and also, whether such loan in each case were made by the directors or otherwise, and by what authority."

The undersigned suppose it impossible to mistake the general purport of calls like these. From their minuteness of specification, they may be supposed to aim at particular individuals. Of any such reference the undersigned are without accurate knowledge; and nothing is further from their design than to impute to their respected colleagues the pursuit of any unparliamentary or improper object.

They cheerfully concede to them what they claim for themselves, to have acted with a single eye to public duty, in their apprehension of it. But the undersigned are free to confess, that they regard the undeniable purport of resolutions like those repeated, as highly objectionable. They seem to them to convey a general insinuation out of place, above the region of the partisan press. The charge suggested is that of bribery and corruption, so common as to authorize a general search. This is a crime, unquestionably, which may, if sufficient grounds exist, be rightfully charged on any director of the bank, or member of Congress; but which the undersigned regard as far too serious to be thus charged without such strong grounds of presumption. It is true that it might seem gratuitous, in the undersigned, to be overforward in repelling such a charge. In the existing division of parties, they and their political friends are not found on that side of the House which it was necessary for the bank to buy or bribe. The honorable and high-minded men who compose the majority in the House, politically attached to the administration, and opposed to the bank, do not need the aid of the undersigned to show the injustice of a general imputation upon their characters. But something unquestionably is due to the general reputation of the two Houses of Congress. If individuals are, on clear grounds, suspected of being thus corrupted; if the bank, on reasonable grounds, is suspected of this highest breach of privilege, let the individuals criminated be named; the charge be stated in form; the culprit brought to the bar of the House; and the guilty punished. But let not the whole body of both Houses be involved in one indiscriminate and odious, because vague and anonymous delation.

As for the call for the correspondence of all members of Congress with the bank for the last two years, and particularly for copies of all unanswered letters, the undersigned could not but regard it with painful feelings. Public life, already sufficiently discredited by the fierceness of party warfare, will cease to be a pursuit for those who have not lost all taste for the social charities, if the sanctuary of private intercourse and private correspondence is to be invaded at pleasure, and every letter, answered or unanswered, which may have been written by an individual who has the misfortune to be a member of Congress, (for a great misfortune under such circumstances it would be,) is subject to be brought up by the dragnet of a general search. It was declared by Mr. Dunning, in the famous case of Money and others against Leach, that "to ransack private studies, in order to search for evidence, and even without a previous charge on oath, is contrary to natural justice, as well as to the liberty of the subject. To search a man's private papers, *ad libitum*, and even without accusation, is an infringement of the natural rights of mankind." (3 Bur. 1762.) It was not the least detestable of the cruel violations of justice and law which brought Sidney to the block, that he perished in consequence of the discovery of a manuscript political treatise, brought to light by a general search among the papers in his cabinet.

The undersigned perceive no more right in a committee of this House to call for the letters which may have been written by a member of Congress to an officer of the Bank, on the subject of a renewal of the charter, than to call for his letters to any other person on any other subject. Undoubtedly it is conceivable that such a letter might become legal evidence, in a process of attachment, for breach of privilege, and in that case might be called for and used. So might any letter, in any criminal cause. It is conceivable that a man's letter to his wife or child might become legal evidence in a capital trial; and in that case, if it were in the possession of a third person, the

court would compel its production. But the undersigned are of opinion that a general warrant to compel the production of all the letters which may have been written by a class of individuals for two years, in order to a search of the same, with a view to the institution of a criminal prosecution against the writers, or receivers, is now for the first time attempted to be made, in virtue of the authority of a parliamentary body.

It is one of the infirmities of our nature, that, in the ardent pursuit of ends which, as individuals or members of a party, we think justifisble, we sometimes go far beyond the line of justice, as we should understand it in our own case. To those who, in the ardor of a protracted controversy, have become wrought up to the belief that the bank and all its offices are one great engine of corruption, and those who have defended its chartered rights and maintained its usefulness, in and out of Congress, a band of mercenary stipendiaries, it may seem a very just and proper demand that the confidence of their private intercourse should be violated, their business transactions stigmatized with corruption before the world, and their private correspondence spread on the journals of a committee of the House, and, at their discretion, sent to the newspapers. But if, pausing a moment in the career of party, they will make the case their own; suppose themselves at the mercy of those now in the minority, wielding against them the entire authority of the House, sending its committees to unlock their closets, and requiring the production of every letter they may have written on public affairs for years, they will probably form a new conception of the light in which the calls now under consideration are regarded by those against whom they were aimed, if any such there be.

The undersigned would make a reflection somewhat similar, in reference to the call for the amount of fees paid to counsel for legal advice given to the bank, and the accommodations received at the bank by editors and publishers of newspapers and periodical works. It will not be denied that there is an imputation of corruption in calls like these; for it cannot be pretended that, merely as a part of the business transactions of the bank, the sums which would fall under these heads, in any estimate, however extravagant, of their amount, could be of any interest to Congress. Why, then, are they singled out? There is, of course, in collecting the vast amount of debt constantly falling due to the bank, and in carrying on its large concerns, continual need of legal advice and professional service. Is it disreputable to seek this advice and service, and, having received them, to pay for them? Is the profession of the law fairly obnoxious to the stigma, which the resolution implies, on those of its members who transact the business of the bank? Are mere partisan insinuations, fabricated with all the levity and cruelty of an unscrupulous press, sufficient ground for the virtual denunciation and proscription of a whole profession? The undersigned forbear to insist on the protection which the law gives to the intercourse of lawyer and client, and which, they believe, would protect the bank from this search into the relations which exist between it and counsel employed in transacting its business.

Nor do the undersigned think the profession of editors and publishers, of right, more obnoxious to the imputation of corruption, on the ground of business transactions with the bank. The nature of their business requires bank accommodation as much as any other. The undersigned do not perceive that they are more likely than any other class of citizens to be corruptly influenced by the accommodations they receive. If they were, it is doubtful, as matter of fact, whether, with an exclusive eye to the accommodations afforded by all the banks in the country, and to the influences under which they are dispensed, it would be a better calculation at the present day, to defend or to attack the Bank of the United States. One thing is certain, that the editor who defends the Bank of the United States may be considered free from the suspicion of having an eye to political patronage; a source of corruption, when abused, as powerful, to say the least, as the favor of a mere moneyed institution.

7. But the undersigned hasten to express their views on the last step which was taken by the committee towards the discharge of their duty; in many respects, the most important of all. On the 9th day of May, a copy of a process, somewhat of the character of a *subpœna duces tecum*, and which may be seen in the appendix, No. 47, addressed to B. S. Bonsall, marshal of the eastern district of Pennsylvania, was served upon Nicholas Biddle, president, Emanuel [Manuel] Eyre, Matthew Newkirk, John Sergeant, Charles Chauncey, John S. Henry, John R. Neff, Ambrose White, Daniel W. Coxe, John Goddard, James C. Fisher, Lawrence Lewis, John Holmes, and William Platt, directors of the Bank of the United States, commanding the said Bonsall to summon them to be and appear before the committee of the House of Representatives of the United States, appointed on the 4th day of April, 1834, in their chamber in the North American hotel, in the city of Philadelphia, and to bring with them the credit books of said bank, on the 10th day of May, instant, at the hour of 12 M., then and there to testify touching the matters enumerated in the said resolution, and to submit said books to said committee for inspection. The undersigned entertained, and still entertain, great doubts of the legality of this process. The inquiry alluded to in the process is, among other things, into "the abuses, corruptions, and malpractices of the bank;" that is, the crimes and misdemeanors of its officers and directors; and the process just recited is intended to be a summons to a majority of the directors and the chief officer of the bank, to appear and testify, as individuals, to the matters of that inquiry; that is, to their own crimes and misdemeanors, with a view, as the resolution of the committee expressed it, of inquiring "whether such prosecution (viz. a criminal prosecution) should be instituted."

The undersigned have already argued at length, and attempted to show, that the power reserved in the charter, of sending a committee to inspect the books and examine the proceedings of the bank, and report whether its charter had been violated, conferred no right of compelling the production of the books out of the bank, and the appearance of the directors, to submit to an examination on oath as to their innocence or guilt, of the unspecified crimes and misdemeanors laid to their charge. In like manner the undersigned have expressed their decided conviction that the general power of inquiry possessed by the House can have no rightful extension to a case like this. It follows, by necessary consequence, that no process, having for its object to compel the directors to appear before the committee, and bring with them the books of the bank to be inspected, and to testify touching the matters of such an inquiry, could be legal. The object of the process was unauthorized by law.

Incident to this fatal objection to the process, is another not less so. A *subpœna duces tecum* is a process, not issuing to the party criminated or implicated in the trial, or interested in the suit, but to a third person, to appear and bring with him any paper in his possession, which may be lawfully used as evidence in the trial or suit, without prejudice to the person summoned, or his title. The process of the committee was intended to be addressed to those whose abuses, corruptions, and malpractices were the subjects of inquiry; and the books they were ordered to bring with them, were to be used in their own crimination.

The form of the process, and its mode of service, are believed by the undersigned to be not less objectionable than its object, and equally fatal to its legal character; but on this topic they omit to dwell.

Notwithstanding the strong objections to its legality, the persons to whom it was addressed, individuals unsurpassed for probity, intelligence, and weight of character in the community, treating it with the respect due to the House of Representatives, obeyed its call, and appeared before the committee, at their chamber in the North American hotel. Their answer to the summons was communicated in writing, and appears among the documents as paper No. 48. They state therein, that they do not produce the books of the bank, because they are not in the custody of either of them, but in that of the board of directors. By the board, it will be recollected, the books had been confided to a committee of their number, to be by them submitted to the committee of investigation. If it were the purpose of the committee of the House to address their process to the party having the actual possession of the books, it would seem that the committee of directors was that party delegated by the board, and recognised throughout the transaction as their agent, by the committee of the House. If, on the other hand, it were intended to address it to the party to whom the books ultimately belonged, it would seem that it should have gone to the corporation.

The written answer of the directors (after stating their ignorance, whether they should be called on to testify) expressed a purpose not to testify to the matters of the inquiry, in consideration of the character of the inquiry, and their own relation to it, as corporators and directors. But as none of the persons summoned were required by the committee to testify, no actual refusal to testify took place, and consequently, no contempt (supposing an actual refusal would have been such contempt, which the undersigned do not admit) was committed by the directors against the authority of the House.]

The undersigned are aware that, supposing the process valid in its object, substance, form, and service, it was matter of indifference, as far as the question of right is concerned, what book or books the directors were required by it to produce. But they cannot but express the opinion, that a demand for the credit books of the bank, showing the account of every individual with the institution, was the last which, in tender regard to the rights and feelings of third persons, it would have been expedient to make.

So sacred is the confidence of individuals dealing with the bank, that the charter exempts the state of their accounts from the weekly inspection which the Secretary of the Treasury is authorized to make; and the by-laws which have been in force from the foundation of the institution, forbid a director, without special authority, to inspect the cash account of individuals. To require the directors to take from the banking-house, convey through the public streets, and open for inspection in the chambers of a hotel, the book containing the account of every individual with the bank, would seem to indicate the purpose of putting to the severest test the power of the House, the obedience of the bank, and the patience of innocent third parties, whose vital interests might be jeoparded in this procedure.

The previous demands of the committee, having assumed the form of requests, could only be objected to in their spirit and tendency. There is nothing which a committee authorized to inquire, may not request, because there is no request, which, as such, may not be refused. The law knows nothing of requests; their refusal puts no one in contempt. But the process now under consideration assumes the form of a legal and compulsory instrument, authenticated by the seal of the House, and the signature of the Clerk. Obedience to such an instrument, (if it is lawfully issued,) can be compelled against all obstacles and opponents, and those who maintain its legality, must maintain the power of enforcing it. How shall it be enforced, in case it is disobeyed and resisted? Shall the Sergeant-at-Arms be sent to attach the directors? Shall they be brought prisoners to the seat of Government, and the bar of the House, attached for refusing to produce and bring their books to the North American hotel, and for avowing a purpose (which was not put to the test) not to submit to an examination on oath, touching their own crimes and misdemeanors? A satisfactory answer, consonant to reason and justice, and grounded on the constitution and laws of the United States, must be found to this question, by all persons who maintain the validity of the process issued by the committee.

That such a process is no *subpœna duces tecum*, is obvious from the fact that it is addressed to the parties implicated. It is no process in chancery, requiring a party to produce his books and papers; for its avowed object is to inquire whether "a criminal prosecution shall be instituted;" an object for which the chancellor will require no man so produce his papers. Unlike any of the processes known to the humane jurisdiction of the present day, it is, in their most odious features, identical with the general warrants of the dark ages of English liberty, and the writs of assistance which first kindled the spirit of resistance in the American colonies. It is a compulsory process, to compel the good people of the United States to produce their books and papers, and submit them to general search in proof of crimes not charged but suspected; to be enforced by attachment, imprisonment, and infinite distress;—a search of books, a search of papers, a search of accounts, a search of letters, and an examination on oath of the persons implicated, touching the matters whereof they are suspected. In what does such a warrant differ from those which were issued under the first Charles and the second James, for which, among other things, Scroggs was impeached; and which the House of Commons, in 1763, after full argument, solemnly resolved to be illegal? Illegal for a Court of King's Bench in 1684, illegal in the judgment of the House of Commons in 1763, the undersigned are slow to believe that an American House of Representatives, in 1834, will be found to assert, or an American citizen to admit, their legality.

In conclusion, the undersigned would observe, that neither of them gave his voice for the resolution creating the committee, nor deemed the inquiry, in many of its objects necessary or proper. They hope it is not improper to add the expression of the opinion that, had the attention of the House been particularly drawn in debate to the terms of the resolution, it would have received some modification; and that it is owing to its passage under the operation of the previous question, and without any examination of its details, that it received, in its present form, the sanction of the House. Being, however, placed on the committee, the undersigned were desirous of discharging their duty as members of it, under the order of the House, to the best of their ability, and according to their understanding of the rights of the corporation visited, the powers of the House, and the principles of justice. They were desirous of taking up the various matters of inquiry enumerated in the resolution, viz. the causes of the distress, the alleged violations of the charter, and the imputed corruptions of the bank, one by one; of considering them in the order in which they are arranged by the House; of investigating each according to its nature; of inspecting the books and examining the proceedings of the bank according to the charter, that is, in reference to all objects which, by the charter, are properly subjects of such inspection and examination; or in regard to which the directors might voluntarily submit them for inspection; and of inquiring into the other matters referred to them, as far as, on consideration, they should deem the committee competent to do so.

Of all these objects, the undersigned confess that they

regarded that which stands foremost in the resolution as vastly the most important—an inquiry into the causes of the present distress. It was their firm persuasion that the country demanded this inquiry of Congress. A number of memorials and of subscribers to them, greater by far than have at any former period come before Congress, invoked the aid of the National Legislature to relieve them from a state of unexampled distress. An embarrassment unusually extensive and severe, and not yet essentially alleviated, demanded an inquiry into its causes. It was alleged, on the one hand, to be wantonly produced by the bank; and, on the other, to be the unavoidable consequence of the financial policy pursued by the Executive. The undersigned wished to make this the first, as it was infinitely the most important object of their investigations; to receive the testimony of enlightened merchants and men of business, in the intelligent community to which they were sent, (who might be willing to appear before them,) as to the extent and causes of the distress; to receive from the bank those statements of its affairs, which they are well persuaded it would most cheerfully have afforded, and which would have illustrated its whole course in the difficult and trying position into which it has been thrown; and from all other persons, on whom the committee would have had a right to call, their testimony as to the manner in which this measure of the Executive has been taken up and carried on. Such an examination, the undersigned believe, would have been useful to Congress; satisfactory to the people; and powerfully efficient in leading to the removal of the heavy burdens now lying on them. This object first accomplished, as it was the first in the precept of the House, the undersigned would have proceeded to considered the violations of the charter; and as the resolution of the House does not confine the inquiry to those violations with which the bank has been charged, they would have deemed themselves authorized to extend their researches to those of which the bank complains, particularly to the removal of the deposites for reasons not deemed satisfactory by Congress, as now appears of record on the journal of one of the Houses of Congress. If, after these inquiries had been gone through, it had still appeared, on considering the other matters comprehended in the resolution, that they required or admitted further investigation, the undersigned would cheerfully have co-operated in the work, resorting to every source of information, legally available, as far as the same could, by the charter, be required from the bank, or legally received or compelled from any other quarter. If, in the progress of such an investigation, so conducted, disclosures had been made of matter requiring or authorizing any further procedure on the part of the House, the undersigned would not have been behind the most zealous of their associates, in denouncing it to the House and the country. A different view of their duty was, however, taken by their colleagues, resulting in a series of measures from which the undersigned unfortunately found themselves obliged to dissent.

But while there was a form in which the undersigned were prepared to meet every part of the resolution under which the committee was raised—the form most consonant to the wants and wishes of the country, (to which all other matters of party crimination are insignificant, compared with the great question of the causes, the just responsibility, and the remedies of the present sore distress)—the form unquestionably in which the resolution was viewed by one considerable class of those who voted for it in the House—the undersigned freely admit that, in the range and character proposed to be given to the inquiry by their colleagues, the majority of the committee, the purpose of the majority of the House was not mistaken. They think that no candid person, contemplating all the circumstances of the case from the first demonstrations of a policy on the part of the Executive hostile to the bank, down to the recent measures in support of that policy in the House of Representatives, will deny that its object was the overthrow of the institution, and the impeachment of its directors, before the bar of public opinion, if not before that of the judicial tribunals of the land, of gross malpractices, corruptions, and frauds; and that the inquiry to be conducted by the committee, of which the undersigned composed the minority, was proposed to be one of the measures to promote that end. So far from this being denied, the undersigned understand it to be not only admitted but claimed as a merit, on the part of the friends of the present administration of the National Government.

How was it natural that such an inquiry should be met by the bank, or rather by those who have been intrusted by the stockholders with its direction? The bank is a legal abstraction. To charge the bank with bribery and corruption, is to use words which have no accurate meaning, true or false. The party implicated is the directory and officers; men of character; men known to the community as some of its most useful members and highest ornaments; men of probity, unimpeached in private life. Some of them are merchants, whose word in the most important transactions would be deemed as good as their bond, and others are professional characters, who adorn the highest tribunals of the country. These are the party implicated; charged with a most cruel and perfidious design to bring universal distress upon the country, for the sake of paltry selfish ends; and, to promote these ends, further charged with corrupting the conductors of the press, corrupting the people in the exercise of their elective franchise, and corrupting the members of Congress. Are honest and honorable men, charged with these odious misdemeanors, to submit to the charge without a murmur; to acknowledge the reasonableness of making it; the expediency of investigating it, all vague and unspecified as it is; the reality of a *prima facie* case against them? Does conscious innocence require them to admit that there is ground of suspicion? Does the strong and indignant feeling that their characters are outraged, while their rights are invaded, call upon them voluntarily to take the culprit's place; and endure the ignominy of what they deem an uncalled for and a vexatious inquisition? Or is it not rather the natural dictate of proud and conscious innocence to place themselves upon their rights, beneath the ægis of the law? If I go to my neighbor, as honest a man as myself, and say, "you are a swindler and a knave," shall he meekly ask me to enter his house, lay open his ledger and his letter-book, and invite me to collect the materials out of which I may prejudice the public against him? The directors of the bank are citizens, as honest and as virtuous as any of those, in office or out of it, high or low, who charge them with corruption. A good name is as dear to them as to their accusers. Their stake in the welfare of the country is as great. The success with which they have conducted the affairs of the great institution intrusted to their care, is not matter of opinion; it is notorious to all the world. At this moment, notwithstanding the fearful warfare waged against them by almost every branch of the Government of their own country, their credit is as good at London and Paris as that of the Bank of England or France. At this moment, in the remotest East, in the markets of China, where the silver coin of the country, from the public mint, is undervalued, the paper of the Bank of the United States is an acceptable currency. In the midst of its career of usefulness, it has been, unfortunately for the country, drawn into the field of political controversy; its directors and officers vilified by name, their most laudable measures misrepresented, their most innocent acts calumniated, and their slighest errors of judgment tortured into corruptions and crimes; above all, the severe distress, with which the country has been visited, for the sake of carry-

ing on this warfare, has been cruelly imputed to the wanton action of the bank, though struggling for its own existence against the most formidable efforts to crush it. The calm and dignified tone which characterizes the communications of the committee of directors, under circumstances like these, is, to the undersigned, a satisfactory indication of their integrity and conscious purity. They have placed themselves where, as American citizens, conscious of their rights, of their injuries, and of their innocence, they had a right to place themselves, under the protection of the law.

Firmly believing that they are innocent of the crimes and corruptions with which they have been charged, and that, if guilty, they ought not to be compelled to criminate themselves, the undersigned are clearly of opinion that the directors of the bank have been guilty of no contempt of the authority of this House, in having respectfully declined to submit their books for inspection, except as required by the charter.

All which is respectfully submitted by

EDWARD EVERETT,
WILLIAM W. ELLSWORTH.

In Senate, *May* 2, 1834.

The Committee on the Public Lands, to which was referred the message of the President of the 4th December, 1833, returning, with his objections, the bill which had originated in the Senate, and had passed both Houses of Congress at the preceding session, entitled "An act to appropriate, for a limited time, the proceeds of the sales of the public lands of the United States, and for granting land to certain States;" and to which has also been referred a new bill, with the same title, introduced into the Senate at the present session of Congress, has, according to order, had under consideration both the subjects thus referred to it, and begs leave now to report:

That the committee has examined and considered the message of the President with all the respect and attention due to a co-ordinate branch of the Government; and being, after mature and deliberate consideration, unable to coincide with the President in all his reasoning and conclusions, the committee requests the indulgence of the Senate in submitting the views and opinions which it entertains on the several matters presented or discussed by the President.

The committee, in the first place, must express its regret that a bill which had been passed by the last Congress should have been retained by the President until the commencement of the present. By the constitution, the President is invested with power to negative any bill which shall have passed both Houses of Congress; but this power, which was conferred not so much for legislative purposes as to enable the Executive branch of Government to protect itself against encroachments which might possibly be attempted upon its lawful authority, is limited and qualified by the express provisions of the constitution. According to these, when the President does negative a bill, he is required to return it, and, if it again pass each House by a majority of two-thirds, it becomes a law, notwithstanding the President's negative. By retaining this bill, and not returning it to the Congress which passed it, the qualified veto of the President was converted, in effect, into an absolute veto. Congress has lost all power over the bill; the last Congress having ceased to exist cannot act upon it; and the present Congress cannot act upon it, because it did not pass it. By thus retaining a bill, its passage into a law may be defeated by the President, although, if he were to return it to the Congress which passed it, with his objections, it might be again passed by a constitutional majority of two-thirds; and such the committee believes would have been the case if the bill in question had been returned by the President to the last Congress.

The framers of the constitution, anticipating the possible attempts of a Chief Magistrate to defeat the passage of bills which had passed both Houses of Congress, by retaining them an indefinite length of time, prescribed a period within which they should be returned by him, or become laws, without his approbation. "If any bill (says the constitution) shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law." If it should be argued that the bill in question, having been presented to the President on the 2d of March, 1833, and the session closing on the 3d, Congress had, by its adjournment, prevented its return within the period limited by the constitution, two answers present themselves: 1st. It was not an adjournment, but a dissolution of Congress. The termination of the alternate, or, as it is usually called, the short session of Congress, is fixed in the constitution. It is the end of the Congress; it is on that day dissolved. The day never comes by surprise or unexpectedly, but is known at the commencement of the session, and throughout the whole progress of it. It cannot therefore be said, in the language of the constitution, that *Congress*, by their *adjournment*, prevented the return of this bill. That provision of the constitution must be understood to refer to cases of adjournment depending upon the will of Congress and to have been designed to guard the President against the effects of a sudden and unforeseen adjournment ordered by Congress itself. A consideration giving additional strength to this ground is derived from the fact of a change of the presidential incumbent. This bill was presented to the President the day before the expiration of his official term; and, constitutionally, he had no right to communicate this message to the Senate. Suppose he had been succeeded by another, who would have had the right to the possession of the bill? Not the old President, because he was out of office; not the new, because he was not in office when the bill passed; and neither of them, therefore, could have returned it to the Senate, with or without an accompanying message. On the 3d of March, 1817, the day of Mr. Madison's final retirement from the office of President, the bill setting apart the bonus of the Bank of the United States for internal improvements was presented to him. Although it was a highly important bill, involving a grave and much controverted constitutional question, short as the time was for a due consideration of it, he examined and returned it, with his objections, probably, among other reasons, because he knew that his successor could not act upon it.

2d. This bill had passed at a previous session of the Senate (1832–'33) in the shape in which, with one modification, it was presented to the President. Copies of the bill prior to its passage, at both sessions, had been laid before the President. He had treated the subject, and demonstrated his possession of a knowledge of the bill in his message at the opening of the session in December, 1832. When, therefore, the bill was presented to him for his approbation on the 2d of March, 1833, he must have been familiar with it.

The committee, therefore, thinks that, under all the circumstances of the case, the bill ought to have been returned to the last Congress. By withholding it, the President deprived that Congress of its constitutional right to reconsider the bill, and determine whether it ought not to pass, after giving due weight to his objections.

Passing from this view of the subject, which the committee thought it proper to present in respect to the constitutional rights of the Legislative and Executive branches of the Government, it will now proceed to consider more particularly the specific objections to the bill contained in the President's message.

The President "is fully sensible of the importance, as it respects both the harmony and union of the States, of making, as soon as circumstances will allow of it, a proper and final disposition of the whole subject of the public lands." This bill, however, he thinks, does not effect that object. It contemplates an arrangement which is not permament, but limited to five years only; allows of alterations within that time by Congress, and furnishes no adequate security against the continual agitation of the subject.

It is difficult to conceive of any plan, other than that of a total abandonment and surrender of the whole public domain, which would preclude occasional legislation by Congress in respect to it. Such a relinquishment the President indeed ultimately proposes; but the committee believes that neither the interests of the Union would be promoted by, nor are the opinions of the people prepared for, a surrender, immediate or remote, of the vast public domain of the United States, because of any inconvenience, real or imaginary, resulting from the occasional legislation of Congress. The President objects to the temporary character of the act; and yet, towards the close of his message, when he appeals to the people of the new States, and holds out the prospect of a reduction of the price, he says: "It is true the bill reserves to Congress the power to reduce the prices, but the effect of its details, as now arranged, would probably be *for ever* to prevent its exercise." The committee is at a loss to comprehend how Congress should be *for ever* restrained from reducing the price of the public lands by a temporary bill, the too brief period of whose existence, in the opinion of the President, constitutes a serious objection to its passage; especially since, within the short period of five years, to which it is limited, there is an express reservation of the right of Congress at any time to reduce the price.

The bill proposes, upon just and equitable principles, to divide among the several States the proceeds of a property common to them all, for a period of five years. If its practical operation shall be found to realize the expectations which it holds out, it will be competent to Congress to continue it, from time to time, with or without modifications. And it is only upon the presumption of its reconciling itself, by experience, to the public sense of justice and expediency, that the President, in the quotation made from his message as to one of its features, can anticipate its permanent operation.

The President next proceeds to trace, historically, the right of the United States to the public domain. This had been several times previously done by committees of the Senate, and particularly by a committee which reported the bill on the 16th day of April, 1832, that first passed the Senate, for dividing among the several States the proceeds of the public lands. That report of the committee comprised a full exposition of the right of the United States to the public domain, whether situated within the limits of the original thirteen States, or acquired by the treaties of Louisiana and Florida; and also of the principles on which it was proposed to divide the proceeds of the sales of the public lands among the States. And as your committee concurs in the leading facts and principles in that report, it begs leave to refer to it, to annex, and to make it a part of this report, to be published with it.

The Senate will bear in mind that much the most extensive portion of the public domain was acquired by treaty. Over the disposition of the right of soil thus obtained, there is no control or limitation upon the powers of Congress contained in the treaties themselves; and Congress is entirely untrammelled by them as to any disposition of it which may be deemed expedient. But the argument contained in the message almost wholly excludes that larger part of the public domain, and is restricted to the consideration of the powers of Congress in respect to that portion of it which is contained within the ancient limits of the United States.

After having deduced the title of the United States to that part of the public lands which seems principally to have engaged the President's attention, from the deeds of cession and other public acts and documents, the message comes to three conclusions:

"1. That one of the fundamental principles on which the confederation of the United States was originally based, was, that the waste land of the West within their limits should be the common property of the United States.

"2. That those lands were ceded to the United States by the States which claimed them, and the cessions were accepted, on the express condition that they should be disposed of for the common benefit of the States, according to their respective proportions in the general charge and expenditure, and for no other purpose whatsoever.

"3. That, in execution of these solemn compacts, the Congress of the United States did, under the confederation, proceed to sell these lands, and put the avails into the common treasury; and, under the new constitution, did repeatedly pledge them for the payment of the public debt of the United States, by which pledge each State was expected to profit in proportion to the general charge to be made upon it for that object.

"These are the first principles of this whole subject, which, I think, cannot be contested by any one who examines the proceedings of the revolutionary Congress, the cessions of the several States, and the acts of Congress under the new constitution. Keeping them deeply impressed upon the mind, let us proceed to examine how far the objects of the cessions have been completed, and see whether those compacts are not still obligatory upon the United States.

"The debt for which these lands were pledged by Congress may be considered as paid, and they are consequently released from that lien."

It is perfectly true that the waste land of the West was an object of great interest and solicitude with several of the States, and especially the State of Maryland, during the revolutionary struggle; that they contended that what might be won by common sufferings, sacrifices, and exertions, ought to be common property; and that the States within whose limits those waste lands were situated, yielding to the voice of reason and justice, and actuated by a noble spirit of union and harmony, finally made the various cessions which have been referred to by the message. These cessions constituted the United States a trustee for the whole of them in the management and disposal of the common property. It ought to be regarded as a sacred and inviolable trust; and all the considerations growing out of these lands, which threatened to distract the councils, and to paralyze the efforts of the original States, even in the midst of the war of independence, ought still to be allowed to have their full force in dissuading Congress from making any alienation of this common property which will not do justice to every member of the Union.

The committee, therefore, concurs entirely with the message in the position that these lands were ceded, and that the cessions were accepted, on the condition that they should be disposed of for the common benefit of the States, according to their respective proportions in the general charge and expenditure, and for no other purpose whatever. It also agrees with the message that, both under the articles of the confederation and under the present constitution, the avails of the proceeds of the sales of the public lands have generally gone into the public treasury; that they have been pledged to the payment of the public debt; and that the public debt may be considered as now paid, and the lands consequently liberated from the lien.

But the committee cannot agree with the message that the power of Congress over all the public lands remains under the present constitution exactly the same as it was under the articles of confederation. As to those which have been acquired by treaties with foreign Powers, the authority of Congress to dispose of them is unaffected by the articles of confederation, or the deeds of cession, and depends upon the third section of the fourth article of the constitution. And as to the residue, the States that executed the deeds of cession being also parties to the constitution, and having adopted it as separate and distinct communities, were competent to extend the powers of Congress, the common trustee for all the States, over the trust-property which had been previously conveyed, if they thought proper.

By the articles of confederation, contributions were made by the several States of specific sums, apportioned among them to the purposes of the General Government. And the clause, in several of the deeds of cession, which provides that the ceded lands shall be for the use and benefit of the States composing the Union, *according to their usual respective proportions in the general charge and expenditure*, clearly refers to those contributions which furnished a distinct and intelligible rule by which the proportion of each State in the general charge and expenditure could be ascertained. By the new Government, contributions were no longer to be made by the States; but the Treasury was to be supplied by taxes, direct and indirect, levied upon the mass of the community. The taxes which have been accordingly levied, have been chiefly upon consumption; so that it is impracticable to ascertain what amount is now in fact contributed by the people of each State towards the expenditure of the General Government. And as the amount of contribution cannot be ascertained, it is impossible to say whether each of the States composing the Union does derive benefit from the public lands in proportion to its charge in the general expenditure. And it is far from being certain that, in the actual appropriation which has been made of the proceeds of the public lands, there has not been a constant departure from the rule prescribed in the deeds of cession.

There may be ground for difference of opinion whether the change of government in the particular which has been noticed, induced the framers of the constitution to enlarge the power of Congress, and whether they have, in fact, enlarged it over the public lands which had been previously ceded by some of the States. But, as to all other territory and property of the United States, Congress possesses ample power to regulate and dispose of it. It is expressly provided by article four, section three: "The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory and other property of the United States, and nothing in this constitution shall be so construed as to prejudice any claims of the United States or any particular State."

This power to *dispose of* all the public domain, except that ceded by the States, is full and complete, and depends upon the sound discretion of Congress. The practice of the Government demonstrates, indeed, the common belief, that the power of Congress to dispose of the public land, whether ceded by States or acquired from foreign nations, is unrestricted. Grants have been accordingly made of portions of it for almost every conceivable purpose. More than eight millions and a half of acres have been granted for education; upwards of two millions for internal improvements in particular States; several for military bounties; and large quantities have been bestowed, in gratuity, for seats of Government, on private charities in particular States, and on private individuals. The right of pre-emption has been also conferred and continued to large classes of individuals.

The President himself was supposed to entertain the opinion that there was no restriction on the power of Congress over any part of the public domain. In his message of December 4, 1832, at the opening of the session of Congress, speaking of the public land, he says: "It is in the discretion of Congress to dispose of them in such way as best to conduce to the quiet, harmony, and general interest of the American people."

After this clear admission of the unqualified power of Congress over the subject, the committee has seen with surprise the assertion in the message that the bill begins with an entire subversion of every one of the compacts by which the United States became possessed of their western domain. The first section of the bill allows to the seven new States twelve and a half per cent. out of the nett amount of the sales of the public lands made within their respective limits prior to any distribution among the twenty-four States. The message treats this allowance to the new States as a deduction of one-eighth from the whole amount of the proceeds of the public lands in all parts of the United States; but the allowance is expressly confined to sales within the new States, to the exclusion of sales made in the several Territories, that is, Ohio, and each of the other seven States, is by the provision of the first section to receive twelve and a half per cent. upon the nett amount arising from sales within their respective limits.

This extra allowance is deemed by the President to be contrary to the terms of the deeds of cession. In what respect he does not allege, but it is presumed that he refers to the stipulation contained in those deeds for a perfect equality among the several States. As each State was to be entitled to equal benefit in the lands ceded, subject only to the condition that it should be according to its usual proportion in the general charge and expenditure, the message considers that rule to be violated by assigning to the new States twelve and a half per cent., prior to the general distribution. The President is supposed to insist upon absolute equality among the old and the new States; and that no one of them should obtain more than a fair and just proportion of a common property.

But how are these principles to be reconciled with the plan brought forward by the President in his message of the 4th of December, 1832, and again presented in his message under consideration? According to that plan, he recommends that the public lands be no longer regarded as a source of revenue; that the price be reduced so low as merely to reimburse the expense of the survey and the sale of them; and that, at no very distant day, the whole of the unsold lands should be relinquished to the new States, and all the machinery and control of the General Government for ever withdrawn from the new States.

If Congress may grant the whole of the public lands to the new States, it may certainly grant one-eighth part of them, or one-eighth part of their proceeds, unless the logical rule be false that the major includes the minor. If it be consistent with the terms of the deeds of cession, so emphatically dwelt on by the President, to surrender forever the public lands to the new States within which they are respectively situated, it can hardly be deemed repugnant to the same deeds to assign to them, for a short period, one-eighth part of the nett proceeds of the lands situated within their limits.

The message seems to consider the extra allowance to the new States as involving a new principle unsanctioned by the practice of the Government, and as a gratuity which cannot be granted without manifest departure from the principles of equity which should regulate the disposal of the public lands or their proceeds among all the States. But with great deference the committee is unable to agree with the message in either respect.

1. As to the practice of the Government. It has been already stated that Congress has granted to the new States, for purposes of education, upwards of eight mil-

lions of acres of the public lands, being a quantity which exceeds, by more than a fourth, all the public lands ever sold by the Federal Government. It has also granted to several States lands for seats of Government; and to some of the new States upwards of two millions and a quarter of acres for internal improvements. And by the compact with each of the new States, five per cent. of the nett proceeds of the sales of the public lands, within their several limits, is reserved to every one of them for purposes of internal improvement. If these various grants, displaying both the liberality and the justice of Congress towards the young members of the national family who have established themselves in the wilderness, do not violate the deeds of cession, or transcend the duties of Congress, how can it be justly contended that the extra allowance in question is forbidden?

2. But this extra allowance is not a gratuity. The apportionment of the proceeds among the several States, is on the basis of the state of the population as ascertained by the census of 1830; and the bill proposes to observe that rule in the distribution, during the whole period of five years, to which its operation is limited. But as the increase of population in the new States is in a ratio much greater than in the old, it is evident that a strict compliance with that rule would operate unjustly upon the new States, especially in the latter years of the term. The increase of population in Illinois, for example, is at the rate of eighteen and a half per cent. per annum. Near five years having elapsed since the census was taken, the population of that State is now about ninety-two and a half per cent.; that is, almost double what it then was. The population of the State of Delaware, on the contrary, has increased only about three per cent. during the same five years; the ratio of its increase from 1820 to 1830 having been, for the whole ten years, only six per cent. The State of Illinois, therefore, would receive only about one-half of what it is justly entitled to, if it were restricted to the state of its population in 1829.

Again: the extra allowance to the new States is to be expended on education and internal improvements. The United States being a great land proprietor in each of the new States, is bound, upon principles of equity and fairness, to contribute towards the improvement of the moral and physical condition of the new States, which will necessarily tend to enhance the value of the property of the United States. And, in making the extra allowance, the bill proceeds in perfect conformity with the principles by which the General Government has hitherto invariably acted, in granting to each of the new States lands for schools, and five per cent. of the nett proceeds of sales within their respective limits, for objects of internal improvement.

The committee therefore must confidently, but respectfully, dissent from the assertion in the message, that in making this extra allowance the bill begins with an entire subversion of every one of the compacts by which the United States became possessed of their western domain.

The bill is charged by the message with a violation of the deeds of cession, in adopting, as the rule of distribution, the federal representative population, instead of the respective and usual proportions of the several States in the general charge and expenditure. The rule which the bill adopts is plain, practicable, and intelligible. It admits of easy ascertainment and easy application. Taxation and representation go hand in hand; and, in assuming a rule deduced from representation, there is no reason to believe that it will operate unequally in respect to the taxation to which the people of the United States are liable.

A division among the States according to their respective and usual proportions in the general charge and expenditure, is wholly impracticable, because it is not possible to ascertain under the present constitution, and under the established modes of collecting a public revenue, what amount of the general charge and expenditure is contributed by any State. That clause in the deeds of cession, as before remarked, was inserted in reference to the articles of confederation, by which the contribution of each State was fixed and known. Revenue is now collected, not from States in their sovereign character, but from the mass of the community, according to their consumption. Consequently, it is altogether impracticable to ascertain how much of that revenue is paid by the citizens of any one State. It may be argued that since it is impracticable, it is most proper that the proceeds of the public lands should go into the common treasury, and be thence disbursed in the common expenditure. But it is far from being certain that the principle of equality stipulated in the cessions, is not violated to a greater extent by such an appropriation, than it possibly can be by a division according to representative population. How is it known that each State, when the proceeds of the lands pass into the general treasury, is, in their subsequent disbursements, benefited according to the exact measure of its due proportion in the general charge and expenditure?

In considering the power of Congress over the public lands acquired by deeds of cession from several of the States, the committee thinks it useful to examine, first, the terms of the deeds themselves; and, secondly, the provision in the constitution.

1. As the cession from Virginia was by far the most important, and as the terms of the deed made by that State to the United States do not materially vary from those contained in the deeds of other States, the committee will inquire whether there is any thing in those terms which can be fairly interpreted to prohibit the passage of the bill. The only clause deemed essential in the inquiry is the following condition contained in the deed, to wit: "That all the lands within the territory so ceded to the United States, are not reserved for, or appropriated to, any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation, or federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever."

This deed created a trust in the United States which they are not at liberty to violate. But the deed does not require that the fund should be disbursed in the payment of the expenses of the General Government. It makes no such provision in express terms, nor is such a duty on the part of the trustee fairly deducible from the language of the deed. On the contrary, the language of the deed seems to contemplate a separate use and enjoyment of the fund by the States individually, rather than a preservation of it for common expenditure. The fund itself is to be a common fund for the use and benefit of *such* of the United States as have become or shall become members of the confederation or federal alliance, Virginia inclusive. The grant is not for the benefit of the confederation, but for that of the several States which compose the confederation. The fund is to be under the management of the confederation collectively, and is so far a common fund; but it is to be managed for the use and benefit of the States individually, and is so far a separate fund under a joint management. Whilst there was a heavy debt existing, created by the war of the Revolution, and by a subsequent war, there was a fitness in applying the proceeds of a common fund to the discharge of a common debt, which reconciled all; but that debt being now discharged, and the General Government no longer standing in need of the fund, there is evident propriety

in a division of it among those for whose use and benefit it was originally designed, and whose wants require it. And the committee cannot conceive how this appropriation of it, upon principles of equality and justice among the several States, can be regarded as contrary to either the letter or spirit of the deed.

A fund may be common to various copartners in the collection, control, and government of it, and yet the use and actual enjoyment may be separate and individual. Entertaining this view, the committee thinks it would be a departure from the obligations of the trust to cede, as the message proposes, the whole trust-property to particular States, to the exclusion of others. The committee, on the contrary, thinks it the duty of Congress to retain the control of the fund, and to administer it for the use and benefit of the several States composing the Union.

2. But if any doubt existed as to the right of Congress, under the deeds of cession, to divide the proceeds of the common property among the several States, it must vanish when we consider the provisions of the constitution. The parties to the constitution were the same as the parties to the deeds. And the adoption of the constitution was as much the separate act of each State as was the execution of the several deeds of cession. The constitution, too, followed the execution of the deed by Virginia, and that of every other State but one; and if there be any incompatibility between them, the constitution, being in point of time the last act, must control the operation of the previous deeds.

The language of the constitution is explicit: "The Congress shall have power to *dispose of*, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claim of the United States, or of any particular State." The power to dispose of the territory and other property of the United States is confided to the sound discretion of Congress without restriction. To guard against the effect of the change of government from a loose confederacy to an intimate Union, it is declared, in the latter part of the cited clause, that nothing in the constitution shall be so construed as to prejudice any claims of the United States. And, as the States which ceded the western lands had ceded them with certain reservations, and they or other States might have claims of a territorial, jurisdictional, or pecuniary nature, under the confederacy, which it was apprehended, without an express reservation, might be affected by the change of government, it was further declared that nothing in the constitution should be so construed as to prejudice any claims of any particular State.

Whether, therefore, the authority of Congress is traced to the deeds of cession or to the constitution, the committee deems it fully competent to the passage of the bill.

The bill is equally unfortunate in being obnoxious to the objections of the message whether it omits or imposes any restrictions upon the power of the State Legislatures as to the subsequent appropriation of the fund which it proposes to distribute. The extra allowance to the new States is required to be expended on objects of education and internal improvement. As has been already shown, this restriction is in conformity with a principle coeval with the land system, and which has been steadily adhered to throughout the whole period of its existence, by which the sixteenth section of every township is expressly set apart for education; and in conformity with every compact entered into between the United States and each of the new States, by which five per cent. upon the nett proceeds of the lands in the several new States is assigned for purposes of internal improvement. The committee thinks that it may safely rest the defence of the specification of the objects to which the extra allowance is to be applied upon the invariable practice of the Government.

But if the part of the bill which limits the Legislatures of the new States in the appropriation of the extra allowance to the laudable purposes of education and internal improvement could not conciliate the approbation of the President, it might have been reasonably hoped that the other part of it, containing no restriction whatever upon the local legislation, would have at least commanded his assent. But he objects to the restrictive clauses because they are restrictive and to the unrestricted clauses because they are unrestricted. The President apprehends that the Maysville and Lexington Turnpike Road Company, the appropriation to which several years ago did not meet his concurrence, might possibly derive some aid from the land fund, if the Legislature of the State in which that road is situated were left unrestrained in the application of its proportion of that fund. There are some who would feel that if any part of the fund were directed to such a destination it would only be to repair a wrong unintentionally committed by the President. But the appropriation to that object to which the President applied the veto, rested upon grounds totally distinct from the principle of the present bill. That appropriation was made upon the principle that Congress had the power to aply *any* money in the public treasury to internal improvements. This bill is based on the ground that Congress has broader power over the land fund, either under the deeds of cession, or under the constitution, than it possesses over public revenue collected by general taxation.

The objection to the dirtribution among the States, upon principles of equality, of the proceeds of the public lands, was hardly to be anticipated from a Chief Magistrate who had recommended such a distribution of the surplus revenues of the General Government, without regard to the source of their origin. The committee is not prepared to assent to such a distribution, the constitutionality of which, to say the least, is questionable. But a division of the land fund, if not enjoined by the spirit of the various deeds of cessions, stands upon peculiar ground, totally distinct from that on which a division of a surplus of revenue, arising from ordinary sources of taxation, can be placed.

The message imputes to the bill the object of creating a surplus for the purpose of distribution. But is that an accurate representation of the case? The bill finds in full operation a land system, approved by long experience, which nets to the Government an annual sum of more than three millions of dollars. This sum may be expected constantly to augment. The General Government, just liberated from national debt, no longer stands in need of this sum, unless it should become necessary by wasteful and extravagant expenditure. The General Government is in possession of ample sources of revenue, and in the exclusive possession of that, the most ample of all, arising from foreign imports. The States want the land fund, and it is proposed to divide it among them according to the just and equitable rule of federal representative population. The bill imposes no new tax, creates no new revenue, opens no new channel. It proceeds upon an existing state of things, which it does not disturb, otherwise than by dividing among the States equitably, in their individual character, what is not wanted in their aggregate condition.

But the message objects that the General Government would remain subject to the incidental expenses of the machinery of the land system. The bill, however, only proposes to divide the nett produce of the public lands which come into the public treasury, subject, of course, to a deduction for some charges. If the General Government should continue to pay out of the common treasury a portion of those charges, such as the salaries of the

Commissioner of the General Land Office, &c. it would be no more than what is done in analogous cases. The salaries of commissioners appointed under treaties with foreign Powers to distribute sums stipulated to be paid by them to individual claimants for wrongs committed upon the high seas or elsewhere, are always paid out of the public treasury. And, besides, the small amount which the General Government would continue to pay during the period to which the continuance of the act is limited, for the benefit of the people of the several States, would come out of a common treasury supplied by the same people in their collective character.

The committee perceives, with unaffected surprise, the imputation contained in the message, of a tendency in the bill under consideration towards consolidation. Congress being the common trustee for all the States of a fund created for their benefit, and for no other purpose, the bill presents an equitable scheme for the division of that fund among the declared objects of the trust. If that scheme had been assailed upon the ground of its fostering a spirit of separation and disunion, there would have been at least more plausibility in the charge. The message supposes that the States, by receiving their several annual dividends, will be tempted into profuse expenditure, will rely for their pecuniary resources upon the General Government, and will ultimately lose their distinct local characters. But it is to be observed that in the distribution itself, the States, as such, in their separate and sovereign characters, are expressly recognised; and that the sum, although considerable if expended on suitable and proper objects, is not likely to dispense with the necessity of each State carefully cultivating ordinary sources of revenue. It may be safely affirmed there is much greater danger of a wasteful expenditure of the fund if retained in the hands of the General Government, which does not want it, than if it be transferred to the hands of the several State Governments, which do need it, and whose habitual economy is commended in the message. It was never deemed by any one that the annual supply of arms made by the General Government to the several States tended to lessen their power, or to augment that of the Federal Government.

The committee believes that a mutual dependance of the two systems of Government upon each other has the happy effect of strengthening the bond of common union. And, among the many considerations in favor of the bill, it is perhaps the most important, that its direct and inevitable influence will be to impart additional strength to the Union. The public lands will then form an adamantine chain connecting the States together, and each will be powerfully interested in the preservation of that Union which, for hundreds of years to come, may annually distribute among all its sovereign members a vast fund, which, if the Union were dissolved, would be for ever lost in the commotions and convulsions that would certainly ensue.

The message implies an unmerited distrust in the capacity and integrity of the State Governments, and assumes for the federal authority a superiority of discretion, which the committee thinks, without meaning any thing derogatory, it has not always displayed in the economical disbursement of public revenue. The bill is, besides, limited to a short time; and if it should be found to realize any of the apprehended mischiefs, it may be suffered to expire altogether, or be subjected to such modifications as experience shall indicate to be expedient. To guard against the possibility of a misapplication of the distributive share of any State to objects of a minor or trivial nature, the bill contains a clause which was left out of that passed at the last session, by which a specification is made of the purposes to which the fund shall be appropriated. No State will venture to violate this restriction, because it will apprehend that Congress may refuse to continue to allot its dividend in consequence of such violation.

Almost the entire argument of the message against the bill is applied to that portion of the public lands ceded by the several States to the United States, and situated within their original limits, and is founded upon the supposed repugnance of the provisions of the bill to the conditions contained in the deeds of cession. The committee cannot agree that any such repugnance in fact exists. On the contrary, it conceives that the contemplated distribution is conformable both to the spirit and letter of those conditions. But there is no pretence for alleging any want of power in Congress to distribute the proceeds of that portion of the public lands which has been acquired by treaties with foreign Powers. The treaties themselves impose no limitation as to the disposition of the soil itself, or the proceeds of the sale of it. And the constitutional provision which has been adverted to comes and covers these lands, and invests in Congress an unrestrained power of disposition, according to its sound discretion.

The message states that the total expenditure, incident to the public domain, has been $49,701,280; and the total receipt up to the 30th September, 1832, had been only $38,386,624; from which the inference is drawn that the amount taken out of the Treasury has not been replaced. Why the *30th September*, 1832, was selected by the message, the committee cannot conceive, unless it was for the purpose of recommending the relinquishment of the whole public domain as a useless and unprofitable burden, or for the purpose of holding on to it as a source of revenue until the Treasury was reimbursed the sum which it had cost. If the President had called upon the Commissioner of the General Land Office for the returns of the proceeds of the public lands up to the 30th September, 1833, he would have discovered that their amount was $48,398,571 34, according to a report of that officer laid before the Senate—more than ten millions exceeding the amount stated in the message. This is independent of 4,452,760 acres of land actually patented for services during the late war; of 2,290,937 acres granted for roads and canals in several States; of upwards of nine millions granted and set apart for schools, academies, and universities, and of numerous other grants for various purposes. For the greater part, if not all of these appropriations of the public lands, they ought to be fairly credited.

The public domain, then, has more than redeemed the cost of its acquisition and management. But there is still another view of this subject that ought to be presented. The argument in the message is almost exclusively directed to that portion of it which is situated within the ancient limits of the United States; and it is from the terms of the deeds of cession that the message attempts to deduce a restriction upon the power of Congress. There is no color for that restriction as it respects the territory acquired under the treaties of Louisiana and Florida. In regard to that, as already remarked, the power of Congress to dispose of it, unrestrained by the treaties themselves, results entirely from the clause in the constitution which has been hereinbefore referred to. As to the public lands within the ancient limits of the United States, if there be deducted from the $49,701 280 the twenty millions which Louisiana and Florida cost, it will leave only $29,701,280 chargeable to those lands—less indeed than that sum; for a portion of that expenditure of $29,701,280 was on account of the public lands in Florida and Louisiana. The total amount which has been received, in money, from the lands comprehended within the original boundaries of the United States, according to the before-mentioned report of the Commissioner, is $43,729,718 12, leaving those lands creditor by the sum of $14,028,428 12, without including in the account any grants of land for objects just alluded to.

The message argues that the distribution proposed by the bill is unjust towards the old States, since it first sets apart one-eighth for the new States, and then divides seven-eighths only among all the States. Each of the old States, therefore, the message contends, will receive its proportion of but seven-eighths, instead of the amount of the whole proceeds. The committee believes that it has stated sufficient grounds of justification upon which that previous allowance to the new States is to be defended. But it was not prepared to find the same message dissuading the old States from agreeing to the distribution proposed on the allegation of partiality to the new States, and urging upon the new States to dissent from it also, because it was unjust towards them. If the bill gives the new States more than a fair proportion of a common fund, without sufficient considerations, that cannot be an objection both with the old and the new States. But whilst the message labors to prove that one class of States will receive too much, and another too little, instead of correcting the alleged injustice by proposing some equal division, it recommends that the class which it deems too partially favored shall eventually receive, and the injured class shall finally renounce forever, the whole interest in the common property.

The message supposes that it could not have been contemplated by the deeds of cession that the United States should continue, during a long period of time, to retain the right of soil to large tracts of land within the limits of new States. But the deeds do expressly provide that these lands shall be held for the common benefit of all the States, and for no other purpose; and they must continue so to be held, whether the time is long or short, unless Congress is prepared openly to violate express conditions of the cessions. And why should they not be so held? What injury is done to the new States by the common Government holding lands for the benefit of all within the limits of some? Past experience has demonstrated none. If these lands were held up at exorbitant prices, and the settlement of the new States was retarded improperly, the case would be altered. But the price is extremely moderate, within the reach of every ordinarily provident person, and the new States are populating with unexampled rapidity, as is demonstrated in the report of the Committee of Manufactures, and the table accompanying it, hereinbefore referred to. If it were true that the minimum price of the public lands is too high for one portion of them, it is equally true that it is below the value of another portion of them. And it would be wrong to reduce the price of those which are already low enough, for the sake of those of inferior quality, which, perhaps, would not sell at any price. It might be expedient to discriminate, if it were practicable, as to the price of lands in different States. There are large bodies of poor pine sandy lands in the Southwestern States, of which there is none in the Northwestern States, that probably never will sell at the minimum price, if at any price. But a discrimination between the different States would be invidious, and is impracticable. And, after all, no great mischief is done by not offering, at reduced prices, worthless lands, which nobody would be much disposed to buy at any price. In the State of Ohio all the public lands have been sold but about *five* millions of acres. In the State of Illinois, more than nineteen-twentieths of the whole territory are believed to be arable land; and it will undoubtedly sell, without any reduction of price, in reasonable time, according to the demands of a growing population. Would it be right to reduce the price of this good farming land, because there happens to be in Alabama or Mississippi large tracts of pine-barren which will possibly never sell at any price?

Nor does the fact of there being a large quantity of land remaining in the market, surveyed and unsold for a long time, authorize the inference that it is unsold because the price is too high. It has not been sold, because the Government, by constantly bringing more and more land into the market, exposes an aggregate supply far exceeding the wants of the population, rapid as has been its increase in the new States. This will be manifest from one or two facts. The total amount of all the public lands which had been sold up to the 30th of September last, that is to say, during a period of about forty-five years, since the commencement of the present constitution, was only 31,028,436 acres and 87-100dths of an acre. This, on an average during the entire term, is about 700,000 acres annually. The total quantity surveyed and unsold, according to the report of the Commissioner, is 104,206,822 acres and 46-100dths of an acre. To this there will be additions constantly made, as the Indian title shall be extinguished. If the progress of future sales were to be no greater than that of the past, it would require a period of more than 135 years to sell what is now actually in market, without including new districts that may be exposed. But as these sales depend upon the wants of the population, and as these are regulated by the increase of it, the probability is, that the quantity annually sold, in future, will be much greater than the annual average of that which was sold during the term above mentioned. But making liberal allowances in this respect, many years must elapse before the quantity now actually in market is disposed of. The true policy of the Government, in regulating the price of the public lands, seems to be so to fix it as, whilst the industrious poor may easily acquire a home, a spirit of inordinate speculation may be repressed. Both these objects are believed to be attained by the reasonable and moderate rate at which the Government now offers the public domain.

Entertaining the views and opinions which have been herein exhibited, the committee finds itself unable to concur in the plan of disposing of the public lands which the President proposes; and it agrees in the general principles of the bill which has been referred to it. A brief contrast between the two schemes will enable the Senate better to judge of their respective merits.

The President conceives that the cessions of the public lands to the United States were upon the express conditions that they should be considered by the United States as a common fund for the use and benefit of all the sovereign members of the Union. He objects therefore to the grant to the new States of one-eighth of the proceeds within their several limits, prior to a general distribution of the whole fund. Nevertheless, he proposes himself an immediate reduction of the price of the public lands; that they shall cease to be regarded as a source of revenue for the use and benefit of the United States, or any of the individual States; and, finally, that, after a few years, this vast common property shall be wholly surrendered to those new States to which Congress cannot, in his opinion, consistently with the terms of the deeds of cession, grant one-eighth part of the nett proceeds.

The bill assumes, as a basis, that all the public lands not included within the acquisition of Louisiana and Florida were obtained upon the conditions specified in the deeds of cession. It supposes that whether the proceeds of the lands are brought into the common treasury, or distributed upon terms of just equality among the several States, the spirit and object of the deeds of cession are fully answered. The bill proceeds upon the principle that the United States cannot abandon the trust which the deeds created, and which they deliberately accepted, without a manifest violation of duty, and without absolute injustice to the old States. It does not propose, therefore, a surrender of the trust property to the new States, but contemplates the General Government continuing to perform all the duties incident to the trust, and retaining the control over the property, for the benefit of the several States when the proceeds of sales of it are wanted by them,

and not by the General Government, and for the benefit of the General Government in the event of war. And this mutual use of the fund is limited to a short period, to test, by experience, its expediency. The bill assigns to the new States, prior to the general division of the fund which it authorizes, one-eighth part of the proceeds arising within their respective limits, upon considerations which the committee deems satisfactory, and according to established precedents. And, finally, whatever diversity of opinion may exist as to the power and duties of Congress, growing out of the language of the deeds of cession, no objection can be raised from that source as to any disposition, under the terms of the constitution, which Congress may think proper to make of the proceeds of that largest portion of the public lands acquired under the treaties of Louisiana and Florida.

The bill provides for a distribution of the fund arising from the sales of the public lands during the last year. Such would have been its operation if the President had approved it; or if, returning it to the last Congress, with his objections, it had been passed notwithstanding those objections. As Congress was deprived of an opportunity of passing upon the bill after it had been submitted to the President, by his withholding it, the committee thinks it just to give it the effect which it would have had if passed at the last session. The gross proceeds of the public lands during the last year are understood to be upwards of four and a half millions of dollars; but the precise amount will be ascertained when a call which has been made for it shall be answered. The committee therefore reports the bill, distributing that sum after proper deductions shall be made exhibiting the nett amount; and it reports the following amendments.

A BILL to appropriate, for a limited time, the proceeds of the sales of the public lands of the United States, and for granting land to certain States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the thirty-first day of December, in the year of our Lord one thousand eight hundred and thirty-two, there be allowed and paid to each of the States of Ohio, Indiana, Illinois, Alabama, Missouri, Mississippi, and Louisiana, over and above what each of the said States is entitled to by the terms of the compacts entered into between them, respectively, upon their admission into the Union, and the United States, the sum of twelve and a half per centum upon the nett [amount*] proceeds of the sales of the public lands which, subsequent to the day aforesaid, shall have been or may be made within the several limits of the said States; which said sum of twelve and a half per centum shall be applied to some object or objects of internal improvement or education within the said States, under the direction of their respective Legislatures: *Provided,* That the sum so allowed to the said States, respectively, shall be in nowise affected or diminished on account of any sums which have been heretofore, or shall be hereafter, applied to the construction or continuance of the Cumberland road, but that the disbursements for the said road shall remain, as heretofore, chargeable on the two per centum fund provided for by compacts with several of the said States.

Sec. 2. *And be it further enacted,* That, after deducting the said twelve and a half per centum, and what, by the compacts aforesaid, has heretofore been allowed to the States aforesaid, the residue of the nett proceeds of all the public lands of the United States, wherever situated, which shall have been or may be sold subsequent to the said thirty-first day of December, shall be divided among the twenty four States of the Union, according to their respective federal representative population, as ascertained by the last census, to be applied by the Legislatures of the said States to such objects of education, internal improvement, [colonization of free persons of color,*] or reimbursement of any existing debt contracted for internal improvements, as the said Legislatures may severally designate and authorize: *Provided,* That nothing herein contained shall be construed to the prejudice of future applications for a reduction of the price of the public lands, or to the prejudice of applications for a transfer of the public lands, on reasonable terms, to the States within which they lie, nor to impair the power of Congress to make such future disposition of the public lands, or any part thereof, as it may deem expedient.

Sec. 3. *And be it further enacted,* That the said several sums of money for the year one thousand eight hundred and thirty-three shall be paid at the Treasury of the United States on the first day of January, one thousand eight hundred and thirty-four, and thereafter, half-yearly, during the continuance of this act, to such person or persons as the respective Legislatures of the said States may authorize and direct.

Sec. 4. *And be it further enacted,* That this act shall continue and be in force until the thirty-first day of December, one thousand eight hundred and thirty-seven, unless the United States shall become involved in war with any foreign Power; in which event, from the commencement of hostilities, this act shall cease and be no longer in force: *Provided, nevertheless,* That if, prior to the expiration of this act, any new State or States shall be admitted into the Union, the power is reserved of assigning, by law, to such new State or States the proportion to which such State or States may be entitled upon the principles of this act, and upon the principles of any of the compacts made as aforesaid with either of the seven States first mentioned.

Sec. 5. *And be it further enacted,* That until the said thirty-first day of December, one thousand eight hundred and thirty-seven, there shall be annually appropriated for completing the surveys of said lands, a sum not less than eighty thousand dollars; and the minimum price at which the public lands are now sold at private sale shall not be increased; and in case the same shall be increased, by law, within the period aforesaid, so much of this act as provides that the nett proceeds of the sales of the public lands shall be distributed among the several States, shall, from and after the increase of the minimum price thereof, cease and become utterly null and of no effect, any thing in this act to the contrary notwithstanding.

Sec. 6. *And be it further enacted,* That whenever, for two successive years, it shall appear to the Secretary of the Treasury that the nett proceeds of the sales of the public lands within any land district now established, or which may hereafter be established by law, shall not be sufficient to discharge the salaries of the officers employed by the United States within such district, he may discontinue such offices, and the lands contained in such district remaining unsold, shall, in such case, be annexed to the adjoining district.

Sec. 7. *And be it further enacted,* That there shall be granted to each of the States of Mississippi, Louisiana, and Missouri, the quantity of five hundred thousand acres of land; to the State of Indiana, one hundred and fifteen thousand two hundred and seventy-two acres; to the State of Illinois, twenty thousand acres; and to the State of Alabama, one hundred thousand acres of land—lying within the limits of said States respectively; to be selected in such manner as the Legislatures thereof shall direct, and located in parcels, conformably to sectional divisions and subdivisions of not less than three hundred and twenty acres in any one location on any public land subject to entry at private sale; which said locations may be made at any time within five years after the lands of the United States in said States, respectively, shall have been surveyed and offered at public sale according to existing laws.

* Proposed to be stricken out.

Sec. 8. *And be it further enacted,* That the lands herein granted to the States above named shall not be disposed of at a price less than one dollar and twenty-five cents per acre, until otherwise directed by law; and the nett proceeds of the sales of said lands shall be faithfully applied to objects of internal improvement within the States aforesaid, respectively, namely, roads, bridges, canals, and improvement of water-courses, and draining swamps; and such roads, canals, bridges, and water-courses, when made or improved, shall be free for the transportation of the United States mail and munitions of war, and for the passage of their troops, without the payment of any toll whatever.

House of Representatives, *December* 27, 1833.

Mr. Clay, of Alabama, from the Committee on Public Lands, to which the subject had been referred, made the following report:

The Committee on the Public Lands, to whom have been referred memorials from the Legislatures of the States of Indiana, Illinois, Missouri, and Alabama, asking a reduction and graduation of the price of that portion of the public lands which has been offered at public sale, and remains unsold, and also sundry resolutions of the House, instructing them to inquire into the expediency of such a measure, have had the same under consideration, and beg leave to report:

That they have given to the subject the attention and deliberation which seemed to be demanded by its nature and importance. Whether considered in reference to the interest of the General Government, the harmony of the Union, or the welfare and prosperity of the new States, which embrace the public lands, the question involved is one of more than ordinary magnitude. The committee have felt it their duty to look into the origin of the claim of the United States to the public domain, the better to comprehend the motives and inducements to the various cessions which were made by the States having claims to Western lands, and the obligations incurred by the General Government under those compacts. It is from this source that the title of the United States to much the larger portion of the public lands is derived.

The inducements to cessions, held out by Congress to those States having western territory, were to aid in supplying the means of extinguishing the national debt created by the war of the Revolution, and "to promote the harmony of the Union," and "the stability of the general confederacy." On the one hand, it seems to have been considered not only desirable to obtain the means of payment, but to gain the confidence of the public creditors, by appearing to possess them. On the other, it was no less important to the harmony of the Union to suppress controversies as to territorial claims among the States, to prevent too great inequality of size of the different States, and to keep down the jealousy which would have been inseparable from such disparity.

The public debt no longer presents any obstacle to the exercise of such policy as may, in other respects, be compatible with the terms of the compacts. Before any measure, producing any important change, can be carried into operation, it will have been entirely extinguished.

It appears, by the terms and conditions on which the several States owning Western lands ceded the same, that one, if not the chief consideration, was the formation and establishment of new States, to be admitted into the Union with equal rights and sovereignty. In the act of the General Assembly of Virginia, authorizing the transfer and conveyance of her extensive domain northwest of the river Ohio, the *first*, and, doubtless, the *leading* inducement is expressed to be "upon condition that the territory so ceded shall be laid out and formed into States, containing a suitable extent," &c., "and that the States so formed shall be distinct, republican States, and admitted members of the Federal Union, *having the same rights of sovereignty, freedom,* and *independence as the other States.*"

In like manner, North Carolina expressly stipulated in her act of cession "that the territory so ceded shall be laid out and formed into a State or States, containing a suitable extent of territory," &c.

Georgia, in her articles of agreement and cession, is not less careful in exacting, as a condition of her grant, "that the territory thus ceded shall form a State, and be admitted as such into the Union, *as soon as it shall contain sixty thousand inhabitants,*" &c.

And in the third article of the treaty by which Louisiana was acquired, is to be found a stipulation on the part of the United States, substantially to the same effect. It is, that "the inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted, as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States," &c.

Pursuant to the terms of the several compacts, to which reference has been made, the Government of the United States has, at different periods, admitted into the Union seven States, comprising portions of the territory thus acquired. In every instance, it is believed, very small portions of the public lands had been previously sold; and the acts authorizing the admission of new States into the Union, have uniformly imposed certain conditions, to which the agreement of the people inhabiting said States, was indispensable, to enable them to such admission. Among other conditions, the conventions of the respective States have been required to "provide by an ordinance, irrevocable without the consent of the United States, that the people inhabiting said territory do agree and declare that they forever disclaim all right and title to the waste and unappropriated lands lying within said territory; and that the same shall be and remain at the sole and entire disposition of the United States; and moreover, that each and every tract of land sold by the United States, [after the formation of a constitution by the particular State,] shall be and remain exempt from any tax, laid by the order, or under the authority of the State, whether for State, county, township, parish, or any other purpose whatever, for the term of five years from and after the respective days of the sales thereof," &c. "And that no tax shall be imposed on lands the property of the United States," &c.

The committee do not propose a discussion of the question whether, in the language of some of the acts of cession referred to, the new States have been admitted into the Union with "the same rights of *sovereignty,* freedom, and independence, as the other States;" nor whether there is strict propriety in the declaration to be found in all the acts and resolutions of Congress for the admission of new States, that they are "admitted into the Union *on an equal footing with the original States, in all respects whatever.*" It is not now, and we hope it never may be, necessary to inquire how far the want of eminent domain—the power to dispose of or tax soil within her limits, is compatible with the "sovereignty" of a State; nor to show that the original States, from the time of their independence, and at the date of the several compacts, had that right. The new States having, as a condition precedent to their admission into the Union, disclaimed all right and title to the waste and unappropriated lands lying within their limits, and also the right to tax them while owned by the United States, and for the term of five years after the sale thereof, if not absolutely foreclosed, would doubtless be reluctant to raise the question. But it is, in some instances, the *language,* in all, the *spirit,* of the compacts under which the public do-

main was acquired, that new States should be formed and admitted *as soon as possible.* States cannot be formed without inhabitants. It would not, then, have been a compliance either with the letter or spirit of those compacts, to have fixed so high a minimum on the public lands, as to have prevented their sale, and consequently, their legal settlement; for if it had, it would have been in the power of *one* of the parties to have defeated the main object which induced the *other* to enter into them. It seems fair to conclude that the United States were bound to pursue such a policy as would result in the speedy settlement of the public domain, fixing prices bearing some relation to the value of lands in the same quarter of the Union, at which alone they could have been expected to sell.

Nor did the obligations of the United States, as regards the sale of the public lands, cease with the admission of the several States into the Union. Conceding, on this occasion, the right of the General Government to exact of the people of the new States a disclaimer of the right of soil, and the right of taxation, as the price of their admission into the Union, it cannot be maintained that further sales of the public lands could rightfully be arrested altogether; or (which would be equivalent) that they could be held at prices so far above their relative value as not to sell. What would be the difference, in effect, between a law suspending further sales entirely, and one requiring four or five times the value to be paid? In either case, no land would be sold; no settlements could be made in conformity with law; and the growth and maturity of the State would be most injuriously retarded. Such a policy would not only contravene the spirit of the several acts of cession which have been adverted to, but would be inconsistent with the several compacts between the General Government and the new States, on their admission. While those compacts in their terms restrain the new States from interfering with the primary disposal of soil, or taxing lands of the United States for the term of five years after their sale, they do not release the United States from the duties imposed by the terms of cession, and, at least, imply an obligation on the part of the General Government *to sell in a reasonable time.* That cannot be done, except *on reasonable terms.* Suppose, on the admission of any one of the new States, the General Government had addressed her in this language: "You shall not extend your settlements beyond their present limits; if your population increase, it must be crowded on lands which we have already sold." Would it not have been pronounced on all hands a violation of the compact, and a most revolting breach of good faith on the part of the United States?

If, however, the subject be considered in reference to the *financial interest* of the General Government alone, it is believed that the price of the public lands should be reduced, after having been first offered at public sale, and then remaining a reasonable time subject to private entry, at the present minimum. The Government of the United States is probably the only vender, either of land or any other property, that holds the most inferior quality of any article at the same price with the best. If an individual were to maintain that all domestic animals of a given species were of the same value, how inconsistent would he appear! If a merchant were to refuse to sell *kerseys* at any lower price than he could obtain for *superfine broadcloths,* his conduct would certainly be deemed utterly absurd. Yet there is not greater absurdity in either of these positions, than there is in maintaining that *land of every quality* is worth, or should command, the *same price.*

The experience of the last ten years has demonstrated that lands of the greatest fertility, when sold at auction, will only command a very small fraction above $1 25 per acre. To prove this, it is only necessary to refer to official documents now on the files of the House. It is not probable that more than *one-tenth* of the public domain is of the first quality; yet we refuse to let the remaining *nine-tenths* go at any lower price.

By a report (which is hereto annexed) made by the Secretary of the Treasury on the 22d January last, in answer to a resolution of the House, it appears that the quantity of land to which the Indian and foreign titles had been extinguished, was 301,965,600 acres. Of that quantity there had, on the 31st December, 1831, been offered for sale, 130,932,205 acres; and only 26,524,450 acres had then been sold. By the same report, the quantity of land subject to private entry, on the same day, (and which, of course, had been offered at public auction, and refused, at $1 25 per acre,) was 104,407,755 acres. As evidence of the great inferiority of this large quantity of land, it is shown by the same report that the quantity which had been offered and refused, at public sale in the several States, had been in market, and subject to private entry, the following periods: That in Ohio had nearly all been in market twenty years, the greater portion from twenty-five to thirty years; that in Indiana had nearly all been in market from fifteen to twenty years; that in Illinois had nearly all been in market for fifteen years and upwards; that in Missouri, an average of about twelve years; that in Alabama from twelve to twenty-two years, the average period may be said to be fifteen years; that in Mississippi from twelve to twenty years; that in Louisiana about thirteen years, and that in Michigan about thirteen years.

In December, 1828, a statement compiled from official documents, and printed by order of the Senate, showed that 74,358,881 acres were then subject to private entry, having been offered at public sale, and refused, at $1 25 per acre; and that, of this quantity, 28,247,000 acres (more than one-third) were *unfit for cultivation.* Taking the same relative proportions of the quantity now subject to private entry as the basis of calculation, and it follows that we now have about 40,000,000 acres, *not only inferior,* but *unfit for cultivation.* Yet our system is based on the hypothesis that there is no difference in the quality or value of the public lands.

As an additional proof of the inferior quality of those *hundred and odd millions of refuse lands,* the fact may be stated, that it is dispersed through the oldest, as well as the more recently settled parts of the States and Territories. It is not in such detached bodies, and so far removed from the improved and cultivated lands, as to impede its settlement and cultivation; on the contrary, were the soil good, its locality would afford unusual facilities in both respects. It is wholly unreasonable to suppose that such land will sell for the same price at which land of the best quality can be purchased. But, if reduced to its fair relative value, much might be sold. Inferior lands, lying adjacent to those which are improved and cultivated, would be valuable appendages to them, and would be purchased by present land proprietors. Other portions would be purchased by poor men, who have been driven from the more fertile tracts by men of large capital, and by speculators. As we have seen, much of this land has already been in market, unsold, for twenty years or upwards; for a period how much longer it may remain on hand, it is impossible to determine; but, is it not perfectly obvious that it would have been to the interest of the Government, regarding money alone, to have sold it at half the price in the first instance? Add interest for twenty years, at six per cent. per annum, on the value of a given quantity of land, estimated at *fifty cents* per acre, and it will be about equal to the price demanded by the Government. Yet we have this land still on hand, with its relative value diminished, not only in the ratio in which all other real estate has declined, but by being shorn of much of its valuable timber, by those residing in its neigh-

borhood, or by settlers, who have no permanent interest in the soil. Besides, we have sustained the expense of keeping up a number of land offices, amounting to thousands of dollars every year, which would have been rendered unnecessary by a speedy sale, if the price had been suitably reduced. The proposed policy would result in the sale of many thousands, if not millions of acres, which, otherwise, will not be sold, but be deprived of timber, exhausted, and worn out, by those who have no inducement to preserve the soil longer than for merely temporary use; which is not only detrimental to the interest of the United States, but highly injurious to the particular State in which they may happen to lie.

But the amount of money to be realized from the public domain is not the sole, nor even the chief consideration which should influence and determine the policy of a wise and paternal Government. In the language of the President, in his annual message of December, 1832, "The wealth and strength of a country are its population, and the best part of that population are the cultivators of the soil. Independent farmers are, every where, the basis of society, and true friends of liberty." These sentiments, it is hoped, will find a cordial response in every bosom. Their truth and justness are attested by all history. It may be asked, triumphantly, when did the cultivators of the soil willingly abandon the principles, or knowingly become the enemies of free government? The soundness of the principle laid down is sustained by the most approved doctrines of political economy, and sanctioned by practical experience.

The committee also concur in the sentiment expressed in the same message, that it is "our true policy that the public lands shall cease, as soon as practicable, to be a source of revenue, and that *they should be sold to settlers, in limited parcels, at a price barely sufficient to reimburse the United States* the expense of the present system, and the cost arising under our Indian compacts." The new States have, as they manifestly feel, a deep interest in this subject. By their memorials, they have urged upon Congress repeatedly, within the last ten or twelve years, the policy, the justice, and necessity of reducing the price of *refuse* lands. They have represented, and truly represented, as the committee believe, that the existing law in regard to price operates materially and wrongfully to their injury. The high price of land inevitably retards the population of a country, and, taken in connexion with the want of power to tax it, must postpone the maturity of its resources.

In the opinion of the committee, it is due to the people of the new States, that the existing state of things should be terminated as soon as practicable. It is certainly desirable that every acre of land should, if possible, be rendered productive; and this can never be done till it is in the hands of individual proprietors. Population is emphatically the strength of a state; and to render a people free, prosperous, and happy, they should be the owners of the soil they cultivate.

After a full consideration of the compacts between the General Government and the original States which surrendered territory, and those with the new States upon their admission into the Union; regarding that good faith with which engagements so grave and important ought to be fulfilled; looking to the interest of the Government, either as to the amount of money to be realized, or the harmony, strength, and resources of the Union at large; and considering what is due to the tranquillity and resources of the younger members of the confederacy, the committee cannot resist the conclusion that a law should be passed, reducing and graduating the price of that portion of the public lands which has been offered at public sale, and remains unsold, in proportion to the time it may have been in market. And they accordingly report a bill for that purpose.

In Senate, *June* 9, 1834.

Mr. Ewing, from the Committee on the Post Office and Post Roads, made the following report:

The Committee on the Post Office and Post Roads, in obedience to the resolution of the Senate of the 29th of March, A. D. 1834, proceeded to inquire into the condition of the Post Office Department, and, having made progress in their investigation, now report—

That your committee, at an early day after they were invested with authority so to do, called for a statement of the available claims due from postmasters and others to the Department, and of the funds on hand, and also the amount of its debts. In answer to this inquiry, they were informed that it would be the work of several months, with all the disposable force of the Department, to prepare the statement; the shortest time named as possible, extending much beyond the probable adjournment of Congress. Statements, therefore, said to be accurate, were obtained wherever it was practicable; and, where such were not to be had, your committee received conjectural estimates, sworn to by the heads of the appropriate bureaus.

By these, it appears that the Department is largely insolvent, and that since some time in the year 1832 the Postmaster General did, without warrant of law, borrow from the banks large sums of money on interest for the purpose of sustaining it. The interest account, exhibited herewith, shows that some of those loans were made during the last session of Congress, and within a short time after the date of the annual report of the Postmaster General, which states that there is an available surplus fund on hand of $202,811 40, and which contains no intimation of any probable deficit, present or future. It is also worthy of remark, that his last annual report is wholly silent on the subject of these loans. But the Postmaster General has, since the commencement of this investigation, represented to your committee that aid from the Treasury is necessary to enable him to carry on the operations of the Department, and he has stated that $450,000 is the smallest sum that will serve that purpose.

The sums borrowed and overdrawn on banks to the 11th April, 1834, and then existing as a debt against the Department, are stated by the officers to be	$488,600 00
And they state the amount due to contractors on the 1st of April, 1834, at - -	635,000 00
Making the aggregate of its debts -	$1,123,600 00

They also state that there was, on the 11th of April, 1834, a balance of deposites in banks in favor of the Department, of - - - - - - -	$37,000 95¾
Of which there was deposited in banks which have failed, - - - -	5,455 07
Leaving to the credit account, funds in bank, April 11th, 1834, available, -	$31,545 88¾

They also reported, as a *conjectural estimate*, that there was due from postmasters for postages, accruing prior to January 1st, 1834, $300,000.

The books from which this estimate was drawn have been examined by the committee, and the result of that examination leaves no doubt that the amount of this credit is greatly exaggerated.

It appears that the receipts of the Department for the last quarter of the year 1833, according to the best estimate that can be formed, (the books and accounts not having been made up as they should have been,) amounted to - - - - - -	$467,449 00
That there was deposited by several postmasters in banks, during said quarter, for the use of the Department, - -	332,904 00
Leaving an apparent balance outstanding in the hands of postmasters, of - -	$134,545 00

But it is understood that considerable sums were received from postmasters, exclusive of the deposites in banks, which are estimated to reduce the amount in their hands for receipts, during the last quarter of 1833, to $83,725; which sum, resulting from the several data to which we have access, is fixed upon as the nearest approximation to the truth, attainable within the limited time, which it was in our power to devote to this part of the investigation. We believe, however, that any person acquainted with the books, and the course of business of the Department, and whose attention should be exclusively devoted to the subject, could, in a little time, estimate the amount of debts due to the Department, with a very near approach to accuracy; and that the officers of the Department can, at any time within a few days, make an abstract statement of its fiscal concerns at the termination of any quarter, sufficiently accurate for the ordinary purposes of general information or legislation.

The officers of the Department also estimated the amount due from postmasters for postages, accruing within the first quarter of the year 1834, at $500,000.

Your committee examined, as far as practicable, the data upon which this estimate was made, and they have reason to believe that this sum is also much above the true amount.

It is estimated by the chief clerk of the Department, that the nett receipts for postages in the first quarter of 1834, will amount to - - - - -		$520,000 00
Your committee have ascertained that there was deposited in banks for the use of the Department, within that qr. and prior to the 1st day of April, - - - - -		314,704 00
Which will leave, of the receipts of that quarter, in the hands of postmasters, on that day, - - - - - - - -		$205,296 00

A considerable portion of this sum, probably, was received by the Department in drafts on postmasters, but to what amount your committee have no means of ascertaining. They, therefore, take the above sum as the amount due for that quarter on the 1st of April, 1834.

This estimate of the sums due and outstanding, will still appear large, if we compare it with the amount of similar claims under a former administration; at a time, too, when the Department was not involved in debt, and had no particular reasons to press its collections with peculiar urgency. It appears by the first report of the present Postmaster General, made on the 24th of November, 1829, that, on the 1st day of July of that year, the whole amount due and outstanding, in the hands of postmasters and others, was $94,400 21; and we can see no good reason why the amount of balances should have been suffered to rise to $289,429, much less to the enormous sum of $820,000, as is estimated by the chief clerk, especially at a time when the Department is insolvent, and borrowing from banks, and overdrawing its deposites daily, and even descending to ask the credit of individuals to sustain it in its most necessary functions.

But, admitting the sum estimated by your committee to be due from postmasters, the credits of the Department will stand thus:

Amount of available debts for postages accruing within the qr. ending the 1st of Jan., 1834, -	$83,725 00
Amount of available debts for postages accruing in the quarter ending the 1st day of April, 1834, - - - - - -	205,296 00
Funds deposited in solvent banks, - -	31,546 00
Making the aggregate of credits considered available, - - - - - - - -	$320,567 00

The amount of debts due on that day, as stated by the officers of the Department, was $1,123,033.

Balance against the Department on final settlement of all its accounts, except old balances prior to the 1st of October, 1833, would be $802,444.

The above estimate of the sums due from the Department, is taken entirely upon the credit of the officers of the bureaus to which the superintendence of those accounts properly belong. They profess to have given them with all practicable accuracy, and your committee, having no particular reason to doubt their correctness, have not gone into an investigation with a view to test them.

With respect to the credit or outstanding claims of the Department, your committee could not place the same reliance on the general estimate presented to them. The amount was much larger than they had reason to suppose was correct, from their knowledge of the general course of business in the Department; and their investigation has satisfied them that the error was even larger than they were at first led to anticipate, amounting, as has been already shown, to about $500,000.

Your committee have also made, and here present, an estimate of the revenue and expenditures of the Department for the last quarter of the year 1833, by which it will be seen that, without some real and substantial reform in the management of its concerns, there is little prospect that it will extricate itself from its present embarrassments.

It appears, as stated above, that the receipts for postages in that quarter amounted to - -		$467,449 00
The transportation for the same qr. amounted to -	$522,714 00	
Add incidental expenses to	27,935 00	
Total expenditure, - - - - - -		550,649 00
Excess of expenditure over the revenue,		$83,200 00

Which continuing in the same ratio throughout the year, would leave an annual deficit of $332,800.

An opinion was expressed by the immediate predecessor of the present Postmaster General, in his report of November 13, 1827, that the Department, by a vigilant administration of its affairs, would be able to supply all the wants of the community, and in a few years to pay into the treasury an annual sum of $500,000. This estimate seems to have been grounded upon the rapid increase of the receipts for postages, the improvement of roads and means of conveyance, and the great and increasing number of passengers in the stages, which add to the profits of the contractor, and thereby lessen the cost of transportation of the mail. And your committee entertain no doubt that, had its affairs been conducted prudently, with a view to the public interest, the anticipation would at this time have been realized; unless, indeed, it should have been thought expedient to reduce the postages, and thus relieve the community from a part of its present burden in the transaction of business, and the general diffusion of knowledge.

In order to present this subject more distinctly to the Senate, your committee have taken, and here present, a comparative view of the revenue and expenditures of the Department for the four years first preceding, and the four years next following, the time at which it was placed under the superintendence of the present Postmaster General.

They find that, on the 1st July, 1825, there was a surplus fund of - - -	$283,089 00
That on the 1st July, 1829, the surplus fund was, according to the statement of the former Postmaster General, - -	289,140 17
But according to the statement of the present Postmaster General, it was reduced to - - - - - -	230,489 00

Which, for the purpose of the present esti-

mate merely, your committee assume to be correct. And on this supposition, the available funds of the Department were diminished in four years - -	52,600 00
The receipts for postages during that four years, were - - - -	6,167,519 00
And the expenditures of the four years	$6,220,119 00

The amount of funds sunk by the Department since it came under the superintendence of the present Postmaster General, beyond the amount of its receipts, is

1st. The sum on hand, according to his statement on the 1st of July, 1829 - - -	$230,489
Amount of debts on the 1st of April, 1834 over and above its available funds	802,444
Aggregate - - -	$1,032,933
Four-fifths of that sum supposed to have been expended in the first four years of the present Postmaster General - -	$825,946
And the aggregate revenues of the Department for those four years, was - -	8,731,032
Making the aggregate expenditures for the last-named four years - - -	$9,556,978
Excess of expenditures over the preceding four years - - - -	$3,336,859

Within that time, some new mail routes were established, and some improvements were made in previously existing routes, but all these bear a very small proportion to the increase of expenditures. Possessing, therefore, as this Department has done, those increased elements of prosperity and means of usefulness, it appeared obvious to your committee that there must have been some mismanagement of its affairs, and a lavish expenditure of its funds, to reduce it in so short a time to its present insolvent condition, and to render necessary the appropriation of so large a sum as four hundred and fifty thousand dollars from the Treasury, to enable the Postmaster General to redeem its credit, and carry on its essential operations.

And before determining whether they should recommend such appropriation, your committee thought it their duty to ascertain, as far as practicable, the accuracy of the several official statements which were made to them, as well as those which have from time to time been transmitted to Congress touching the condition of the Department; also, that they should investigate the cause of the sudden insolvency of this important department of the Government, which has heretofore sustained itself from its own resources, which, in former years, actually contributed 1,103,063 dollars to the general revenues of the country, and which was, but a few years since, in a most flourishing and prosperous condition.

The prosecution of that inquiry was attended with much difficulty and embarrassment.

The annual reports of all contracts entered into by the Department within the preceding year, (Law of 1808, v. 2, p. 1092,) have, in two instances, been wholly omitted by the present Postmaster General, and, in a third, the report came in too late to be referred to by your committee, and to aid them in their investigation. No answer has yet been given by the Secretary of the Treasury to a resolution of the Senate adopted on the 11th day of March last, on motion of one of your committee, which calls for copies of the duplicates of contracts, bids, and extra allowances which the law requires (1825, vol. 3, p. 1088, s. 10) should be filed in the office of the Comptroller of the Treasury. The duplicates of contracts and bids are said to have been consumed in the Treasury building; and it was also communicated to us by the officer employed to answer the call, that no statement of extra allowances had been filed there by the present Postmaster General. And the report of the Postmaster General, which accompanied the President's message at the opening of the present Congress, apprizes us that his prior reports, as to the liabilities and resources of the Department, are erroneous. Thus the checks, few and ineffectual as they are, which the law imposes upon the transactions of the Department, having been in a great measure disregarded, or rendered abortive, and no certain means being left us to determine the accuracy of the statements and reports issuing from it, except by causing calculations to be made in all cases where there were data on which to found them, and by comparing those reports with themselves, and with each other, your committee adopted this course, and thus they believe have been able to arrive at a conclusion very nearly correct, as to the general value of those reports and statements.

In order to account for the increase of expense in the transportation of the mail, the Postmaster General has, in his several annual reports, presented us an enormous increase also of mail transportation. In his report accompanying the President's message of December, 1832, he states that the annual transportation of the mail on the 1st of July, 1829, was 13,700,000 miles; and in that accompanying the President's message at the commencement of the present session of Congress, he states that, on the 1st day of July, 1833, it was 26,854,485 miles, making an increase of transportation from the 1st July, 1829, to the 1st July, 1834, of 13,154,485 miles.

From the knowledge which your committee possessed of the general situation and business of the Department at those periods, it appeared to them that this statement carried the stamp of improbability upon its very face. They, therefore, for the purpose of ascertaining as nearly as possible the state of the matter, called on the officers of the Department for the particular data on which they had founded their estimates, and asked also for the original paper showing the calculations; but they were told that those papers were all destroyed. Your committee having subpœnaed Doctor Phineas Bradley to attend before them, and give evidence, placed in his hands the advertisements for mail contracts, and the book containing the statement of extra allowances, and gave directions that he should be furnished with all such information from the Department as would enable him to make a full and fair estimate; and they instructed him to make out and report to them, under oath, a true statement of the amount of transportation, in miles, at the periods above mentioned. After he had proceeded very far with his estimate, and was nearly ready to make his report, your committee was informed, through their chairman, that the calculations from which the report of transportation for 1832 was made out, had been found, and that a copy could be furnished. It was accordingly furnished, but came too late for your committee to compare it with the actual routes, and with the advertisements and books of the Department. And it contains nothing of itself to enable us to determine on its correctness. It stands, therefore, on precisely the same ground with that of the annual reports above mentioned, and requires the same evidence to sustain it.

The report of Doctor Bradley, in whose diligence, integrity, and knowledge of the subject, we have the fullest reliance, is hereto attached, verified by his oath. It shows that the transportation of the mail, on 1st of July, 1829, just after the Department came under the superintendence of the present Postmaster General, was 15,209,039 miles, being 1,509,039 miles more than it is stated in the annual report above referred to, and that the transportation on the 1st of July, 1833, was 21,156,844, in-

stead of 26,854,485, being 5,697,641 miles less than the Postmaster General has reported it.

Thus, by underrating the amount of transportation at the time he came into office, and exaggerating it since that time, the Postmaster General has fallen into an error, as to the amount which he has increased the transportation of the mail, of no less than 7,206,680 miles.

Your committee, not having performed personally the labor of this part of the examination, cannot vouch for the accuracy of the above estimates, but they believe them to be nearly correct; and, if they err, that the error will be found to be in approaching too near, rather than in departing too widely from the statements in the official reports of the Department.

The annual expense of transporting the mail, under existing contracts, with all improvements, was, by the report of the Postmaster General of the 30th November, 1833, set down at - - - $2,033,289 42
The Blue Book of September, 1833, gives the aggregate of all mail contracts and extra allowances at - - - 1,992,920 14

Making a difference of expenditure not accounted for, of - - - $40,369 28

This difference is wholly unexplained. No answer has yet been given to a call made by the Senate, on the 11th day of March last, on a resolution offered by one of your committee, for a statement of the sums paid for transportation and extra allowances, if any, omitted in the Blue Book, which would have enabled them to present an explanation of the discrepancy; and we can perceive of no mode of accounting for it, consistent with the correct administration of the Department, and a careful and accurate examination of the papers which issue from it, and under its official authority.

Your committee has also caused to be selected from the report (of extra allowances) made by the Postmaster General to the Senate on the 3d day of March last, all that have been there set down as subsisting allowances since the 29th day of June, 1833, which ought to include all that are embraced in the Blue Book.

Their aggregate, by that report, amounts to $351,573 30
Their aggregate, by the Blue Book, is 377,947 66

Making a difference of - - $26,374 36

Thus the Blue Book gives an aggregate less than the annual report, of - - - - 40,369 28
And the report of March 3, 1834, less than the Blue Book - - - - 26,374 36

Error between the annual report and the report of March 3d, 1834, - - $66,743 64

The Postmaster General, in his annual report accompanying the President's message of December 1st, 1832, states a surplus of available funds, after defraying all the expenses of the Department down to the 1st of July, 1832, at - - - - $202,811 40
In his report of November 30, 1833, he says that, instead of having had on hand that amount of available funds, the Department was at that time really indebted beyond the whole amount of its resources, including its credits, - - - 2,844 40

Showing an admitted error in that report of $205,655 80

In descending to the items, and comparing one by one the contracts, as set forth and certified in one report of the Postmaster General, with the same contracts as set forth in another of his reports, the discrepancies become still more remarkable. Your committee have set forth a few of these instances by way of example.

The Postmaster General, in his report of the 18th of April, 1832, (Doc. 212, p. 12,) states that Stockton and Neil had contracted to carry the mail on routes Nos. 1201, 1202, 1389, 1390, and 1400; that is to say, from Cumberland to Wheeling, Washington to Steubenville, Baltimore to Cumberland, Washington, D. C. to Frederick, and from Frederick to Winchester, at 7,600 dollars per annum.

By the advertisement, these routes were to go into operation on the 1st of January, 1832.

In his report to the Senate of the 3d of March, 1834, (Doc. 138, p. 204,) he states the same contract at 15,950 dollars per annum, exclusive of enormous extra allowances, which, as they do not relate to the branch of the subject now under consideration, we pass by for the present. The difference between the report of this contract in April, 1832, and March, 1834, is 8,950 dollars per annum, amounting, in four years, the duration of the contract, to 35,800 dollars.

In his report of April 18, 1832, (Doc. 212, p. 17,) he states that R. C. Stockton and William Neil are contractors to carry the mail on routes No. 1,501 and others, including a large number of routes, principally in Ohio, at an annual compensation of - - $30,000
In his report of March 3, 1834, (Doc. 138, p. 210,) he states that Wm. Neil & Co. are contractors on the same routes, at an annual compensation of - - - 50,410

Making a difference in favor of the contractor, per annum, of - - - 20,410

During the contract, of - - - 81,640

In his report of April 18, 1832, (Doc. 212, p. 4,) he states that Reeside and Slaymaker are contractors for carrying the mail from Philadelphia to Pittsburg, at an annual compensation of - - - $7,000
From Pittsburg to Washington - - 1,250

Making in the aggregate - - - $8,250

In his report of March 3, 1834, (Doc. 138, p. 199,) he states the contract as from Philadelphia to Pittsburg, from Pittsburg to Washington, and *from Washington to Wheeling*, at an annual compensation of $27,000

Making a difference, per annum, of - $18,750

And in four years, of - - - $75,000

The line from Washington to Wheeling is included in the contract of Stockton and Neil, in the report of April, 1832. (Doc. 138, p. 204.) It is not mentioned as a part of the contract of Reeside and Slaymaker.

In his report (Doc. 212, p. 2,) of the 18th of April, 1832, the Postmaster General states that James Reeside is the contractor for carrying the mail from Philadelphia to New York daily, at an annual compensation of $6,000.
In his report (Doc. 138, p. 186) of March 3, 1834, he states the same contract at twice a day, and the compensation per annum at 20,500

Making a difference, per annum, of - - $14,500

And in four years, of - - - - $58,000

These are but a few of a numerous class of cases, many of which will be set out at large in a subsequent part of this report. From them your committee have been constrained to draw conclusions most unfavorable to the general accuracy of the Department, and though all, or nearly all, of the cases which follow have been differently

represented in different reports of the Department, they are not selected with a special view to that circumstance. We detail them because they form parts of transactions with individuals, some, it is true, of small importance, and others of greater magnitude, but together involving almost every conceivable variety of abuse; some of them in direct violation of law, and some subversive of the common principles of justice and fair dealing between man and man.

The first case examined by your committee was a contract with General George House, of Gallipolis, in the State of Ohio, and the following is the transaction, somewhat in detail, as it appeared in evidence.

At the lettings (Doc. 117, p. 5) in October, 1830, route No. 1975, from Colesmouth to Gallipolis, was taken by John Black, at the yearly compensation of $394, commencing on the 1st of January, 1831, and ending the 31st December, 1834.

On the files of the Department is a letter from House to the Postmaster General, dated at Washington, January 28, 1831, in which he proposes to carry the mail three times a week in a steamboat from Charleston, Kenhawa, to Gallipolis, at $30 per mile, per annum, to commence as soon as his boat should be ready in the spring; and he adds, that his proposition is made in pursuance of a request or directions of the Department made to Judge Hayward, in December (then) last. The estimated distance, sixty-four miles, equal to $1,920 a year.

In a communication from O. B. Brown to the Postmaster General, dated the 11th of February, 1831, he states the offer of George House at $1,000 for carrying the mail twice a week in a steamboat on the same route, and that the steamboat will be ready, "say the 1st of April." He suggests that the *contract with Black may be suspended*, and asks, "Shall it be done?" The Postmaster General endorses on the paper, "Let it be done;" and thereupon Black received orders to discontinue his route from the 1st of April, 1831. No contract appears to have been executed by House, and Black continued to carry the mail on horseback as his *sub-contractor*. The effect of the whole transaction was to shift the contract out of the hands of Black, and place it in the hands of House, who is well known as an active and influential political partisan. A letter written by House to the Postmaster General, on the 2d of August, 1831, states that he had not yet got his steamboat prepared, and did not know when he should; and it seems that he never did get it prepared; for the mail is still carried on horseback on that route.

At the letting of contracts in October, 1831, route No. 1,588, from Chillicothe to Gallipolis, was bid off by A. L. Ross, at $1,100 per annum, the mail to be carried three times a week in four-horse post coaches. His bid was accepted, and, in the report (Document 212, page 20) of the 18th of April, 1832, he appears as the contractor.

On the 7th day of October, 1831, a letter was written by O. B. Brown to Ross, informing him that the acceptance of his bid was suspended, and that the Department wished him to give it up, as it was important that the stage line from Chillicothe to Gallipolis should be connected with the steamboat line from Gallipolis to Charleston. Ross reluctantly yielded to the requisition, and the mail upon that route was carried by House for some time, but no evidence which can be procured from the Department shows how long, without *any contract*, and without any *written and accepted offer*. There was exhibited to your committee a letter from House to O. B. Brown, without date or postmark, in which he says he has carried the mail from Chillicothe to Gallipolis, and from Gallipolis to Colesmouth, *since the 1st of January*, 1832, *without any contract;* and in this letter was enveloped and filed a paper, also without date, containing a proposition by House to carry the mail three times a week in four-horse post coaches from Chillicothe to Gallipolis, and three times a week from Gallipolis to Colesmouth, on horseback, for the yearly compensation of $2,600. On the back of this paper is endorsed, in the handwriting of the Postmaster General, "Allowed to take place from the 1st of January, 1832." All these papers, and the filing and entries upon them, are without date, and the officers of the Department can give no account of the time of their execution. Some accidental writing in pencil on one of the papers does, however, lead to the conclusion that they are all of very recent origin, and the contract, which was at last executed pursuant to this proposition, appears by the jurat to have been executed on the 27th day of April, A. D. 1833.

Thus were there two contracts transferred from their legal owners, against whom there was no complaint, to George House, at a clear loss to the Department of $1,106 a year, amounting in the four years to $4,424, which sum is, in effect, a gift to that individual, made in violation of law, and under a succession of pretences which had no foundation in fact.

By the act of the 15th day of June, 1832, a mail route was established from Chicago to Green Bay, in the Territory of Michigan; but in the proposals published by the Department on the 24th of July following, this route is not included, and no notice whatever was published by order of the Department for proposals on that route. O. B. Brown, an officer in the Department, who made out the list of proposals, being sworn, stated it as his belief that the omission happened in consequence of the law establishing the post routes not having been published at the time he made out the advertisement, and that he took it from a copy of the bill, which afterwards underwent alterations. It appears that the law was approved on the 15th day of June, 1832; the advertisement was signed by the Postmaster General on the 24th of July following; and it further appears, that this route was upon the bill as it was first introduced into the House, and was never struck out, or underwent the slightest alteration during its progress.

John T. Temple, *then a clerk in the Department*, made out a bid in the name of Asahel Savery, of Michigan, by which he offered to transport the mail on horseback on that route once in two weeks, for $3,000, or once a week for $3,500 a year, which was accepted. There was afterwards a representation made by Asahel Savery, in the handwriting of John T. Temple, stating that the bid was too low, and that he would suffer very heavy loss by the contract. The distance is two hundred and fifty miles. the fair value of the service does not exceed 1,200 or 1,500 dollars.

The Postmaster General, upon this representation, made an additional allowance of $1,000 a year, and the contract was accordingly executed by Savery, and assigned to Temple.

In this manner Dr. Temple, by means of his situation in the Department, obtained a contract giving him $4,500 for carrying the mail 250 miles on horseback weekly, for which service it is believed $1,500 would be a very large compensation; much more indeed than the state of things would justify. The route is an unimportant one; the nett amount of postage received upon it, after leaving Chicago, to its termination at Green Bay, inclusive, falls short of the one-tenth part of the sum given to Temple on this contract; which aggregate sum equals, it is believed, the nett proceeds of postages received in the whole Territory of Michigan.

Prior to the lettings in October, 1831, Lindsay and Sheaffer were contractors for carrying the mail from Hagerstown to McConnellsburg, and at those lettings they again bid to carry the mail three times a week, in four-horse post coaches, at $300, or daily at $600 a year. James Reeside bid for the same at 40 or 99 dollars improved. The bid of Reeside was accepted, and he is set

down, in the report of the Postmaster General of the 18th of April, 1832, as the contractor, at $40 a year. In the report of extra allowances of the 3d of March, 1834, no extra allowance on this contract is noted; but in that part of the same report which gives a statement of the retrenchments ordered, this route is noticed thus, (in page 253:) "1231, Hagerstown to McConnellsburg, James Reeside, four weekly trips, reduced $700. Not understanding precisely how $700 could be deducted from $40, without first adding something to the lesser sum, a member of your committee, who happened to discover the discrepancy, gave to their clerk a written paper, stating the difficulty, and requesting an explanation, and asking also for a copy of some papers, which it was supposed would show the true nature of this and one other transaction. There was much delay and prevarication before any distinct answer was given to the inquiry, and then the Postmaster General declined answering it, because it was not signed by the chairman of the committee. This difficulty was removed. The chairman signed the paper, and, some few days after, and after the arrival of James Reeside, (the contractor in the city,) the Postmaster General sent in his answer on the 15th day of May, 1834, which accompanies this report.

In this, he says, that after the contract was adjudged to Reeside on his bid of $40 or $99 improved, he was ordered to run daily instead of tri-weekly, and the amount of compensation for increased service was left unsettled. The report goes on to state that Reeside represented to the Postmaster General that there had been two mistakes in his bid; that he had made it out in pencil marks, and his clerk had blundered in copying it; that the $40 was intended for $1,400, and the $99, which occurred twice, was intended for $1,999; and the Postmaster General adds that O. B. Brown reported to him at another time these sayings of Reeside, and stated *that there were no other bid on this route.* Mr. Reeside was therefore allowed to correct his bid, making it $1,400 and $1,900, instead of $40 and $99. The report proceeds to say that *Mr. Brown also was mistaken; that there were in fact several other bids,* and that, as soon as this was made known to the Postmaster General, he promptly informed the contractor that his contract should be reduced to the amount at which it would have been fixed had he known of the other bids at the time it was arranged. The time at which this discovery was made, and the notice given, not being named in the report of the Postmaster General, your committee inquired of him on that subject, and he stated that it took place after he received the before-mentioned informal inquiry from a member of the committee.

It is proper to add that other inquiries, informal as that when first presented, had been theretofore answered without objection; and your committee cannot resist the conclusion that the hesitation at first manifested, and the refusal at last to answer, was merely for the purpose of gaining time, and waiting the arrival of the contractor, (who had been subpœnaed by your committee,) that a better countenance might be put upon the transaction than its naked features exhibited.

James Reeside is also contractor for carrying the mail from Baltimore to Chambersburg, 77 miles daily, in four-horse post coaches, at $1,900 a year, from the 1st of January, 1832. The schedule was so changed on the 29th December, 1831, as to lessen the time, and, consequently, to increase the speed; but the difference was so slight as to be wholly unnoticed by a sub-contractor on a part of the route, who was examined by your committee; and on the 18th of April, 1832, long after this change of the schedule, the contract is reported to Congress (document 212, page 15) as subsisting at $1,900. In the report of the 3d of March, 1834, which professes to give all the extra allowances, there is none stated on this route; but in that part of that report which gives the curtailment of mail facilities, (document 138, page 253,) the "increased expedition" is reduced at $1,595 yearly; and, on examination of the books of the Department, it appears that the contractor did in fact receive on that route $3,495 yearly, instead of $1,900; to which sum, and no more, he was entitled by fair and legal contract.

The increased expedition was of importance to the contractor, to enable him to compete with other rapid lines in the transportation of passengers, but it does not appear to have been of any considerable value to the public; and had it been of importance, the increased compensation is much too great for the additional service rendered.

It is stated in the report of the 18th of April, 1832, (document 212, page 2,) that James Reeside is the contractor for the transportation of the mail on the route from Philadelphia to New York, in four-horse post coaches, daily, at an annual compensation of $6,000, for four years from the 1st day of January, 1832.

By the report of the 3d of March, 1834, the contract is stated at twice a day, and the annual compensation (document 138, page 186) at - - $20,500 00

He was allowed, (page 187,) for extra services, a yearly compensation of - -	5,125 00
Increasing the compensation on this route from $6,000, the legal contract, to - -	25,625 00
And an express mail was ordered to be run on the same route, at a yearly compensation of	3,150 00
Making the grand total, yearly, - -	28,775 00

In his report of the 18th of April, 1832, (document 212, page 13,) the Postmaster General states that James Clark is the contractor for carrying the mail from Bedford to Blair's Gap, and from Bedford to Cumberland, once a week, on horseback, from the 1st January, 1832, to the 31st December, 1835, at a yearly compensation of $275. In the report of the 3d March, 1834, (document 138, page 198,) *James Reeside,* is reported to be the contractor for carrying the mail on these routes, (Nos. 1215 and 1230,) from Cumberland to Blair's Gap, three times a week, in four-horse post coaches, at an annual compensation of - - - - - $4,500 00

And on the 25th of February, 1833, he was directed to run daily between Bedford and Blair's Gap, at an additional compensation of	2,911 72
Thus the legal contract for $275 has increased to - - - - -	7,411 72

James Reeside and S. R. Slaymaker were contractors for carrying the mail from Philadelphia to Pittsburg, for a yearly compensation of - - - $7,000 00

From Pittsburg to Washington, Penn., -	1,250 00
Aggregate, - - - -	8,250 00

As by the report of the 18th of April, 1832, (doument 212, pages 4 and 11.)

In the report of the 3d of March, 1834, (document 138, page 199,) they are stated to be contractors for carrying the mail on the same routes, and, in addition thereto, from Washington to Wheeling, in Virginia, (which is also covered by the contract of Stockton and Neil,) at an annual compensation of - - - $27,000 00

On the 5th of May, 1833, there was made on this route a yearly extra allowance from April 1, 1832, of - - - - -	10,000 00
And there was ordered an express mail on the same route, to be run by *James Reeside,* from Philadelphia to Pittsburg, at a yearly allowance of - - - - -	3,150 00
Increasing the compensation on this route from $8,250, yearly, to - - -	$40,150 00

The above are but a few out of the many contracts held by James Reeside and others, his partners. The allowances in the above cases, beyond the amount of their open bids and fair and legal contracts, is $62,316 78 a year; amounting, during the continuance of their contracts, to the enormous sum of $249,267 12, which is given to these contractors by the Department, without advertising, and without competition.

The amount of those allowances was somewhat reduced on the 1st of December last, in consequence of the insolvency of the Department.

It will be noticed in these and many similar cases of favored contractors, that, where they are concerned, competition is absolutely put down, and the notice published pursuant to law, inviting competition and the public biddings, are but mere masks to cover their secret transactions. The route is not advertised as it is to be run; and before it is put into operation, some improvement, generally comporting with an alternative proposition in the bid, is ordered, and the original contract is merged and lost in the *improvement*. The compensation agreed to by the legal contract is, in some instances, so insignificant, that it is hardly worth adding as an item in the aggregate allowance.

But it has not been thought necessary, in all cases, to preserve even the cover of increased services, as an excuse for these extra allowances. The 10,000 dollars yearly allowed to Reeside and Slaymaker, on the route from Philadelphia to Pittsburg, is wholly without this apology. The allowance was for hardships incurred in the performance of a stipulated service, not for any thing done which their contract did not require of them. The whole hardship, too, as proved by the testimony of Reeside, was this: The mail was so heavy for three of their trips weekly, as to prevent their taking in *a full load of passengers* on those trips; by which it would seem that the Department, after paying for the transportation of the mail, on this route, something more than 30,000 dollars, was also held bound to pay the contractor extra for whatever expense and inconvenience the transportation of the mail might occasion him. Or rather, to give the transaction its true character, this ten thousand dollars a year was a *gift*, out of the funds of the Department, to these contractors: and there are some further circumstances attending it, which, on the most careful inquiry by your committee, are not satisfactorily explained.

The evidence shows that Reeside and Slaymaker represent two companies which share equally in the profit and loss on this line. The money accruing for transportation is received by Reeside and Slaymaker, a moiety by each, and distributed by them to their respective companies. This extra allowance of ten thousand dollars was received by them on the 5th of May, 1833, and no part of it has yet been paid over by either of them to their partners, or entered upon any account book of the companies. Reeside, on his examination, stated that they had kept this back to pay some old debts of the companies, which they supposed had been provided for, but which were, unexpectedly, found to exceed the sum appropriated for their payment. But being specially interrogated, he stated that this unexpected deficit did not exceed five thousand dollars in the whole, and that it was not discovered to exist until about three months after the first ten thousand dollars of this extra allowance was received by him and Slaymaker. The whole amount so received and so retained by them on this account, appears to have been sixteen thousand six hundred and sixty-six dollars sixty-six and two-thirds cents. The allowance of this money and its application are alike remarkable.

There were also certain pecuniary transactions of a private nature, between these contractors and some of the officers of the Department, which came under the notice of your committee, which, in their opinion, merit consideration.

Some time in the year 1832, O. B. Brown applied to Slaymaker for a small loan of money, (300 dollars,) which Slaymaker accordingly lent him, but took no note, and made no memorandum of the transaction, *which took place in the presence of no one but themselves*. At another time, Mr. Brown asked Slaymaker if he could lend him three thousand dollars at the usual rate of interest. This also was promised; and sometime after, about the first of January, 1833, Mr. Brown renewed his request, and said he had made a purchase of the property of *Doctor Temple*, on the faith of the promised loan. The witness stated before the committee, that, at that time, he had not the required sum of money at command, but undertook to raise it, and accordingly did raise it, by means of drafts. These drafts were two in number, for fifteen hundred dollars each, drawn by Samuel R. Slaymaker on O. B. Brown, and endorsed by James Reeside, and payable at ninety days date. They were negotiated at the Western Bank, in Philadelphia, and sent to the Patriotic Bank in Washington city for collection. They were paid at maturity by the proceeds of a draft drawn by James Reeside on O. B. Brown, for three thousad dollaas, at ninety days. This draft was suffered to pass a day or two beyond its maturity without payment; but on the 18th of July it was paid out of the proceeds of a draft drawn by Samuel R. Slaymaker on James Reeside, for two thousand dollars, and one thousand dollars in cash paid by Slaymaker; and O. B. Brown, at the same time, drew on Reeside for two thousand dollars, which drafts were sent to the Bank of Maryland for collection. It appears that neither Reeside nor Slaymaker made any charge, or kept any memoranda of these transactions; that they have no note or acknowledgment of Brown, showing his liability to them, unless it be the drafts which were taken up, which Slaymaker says he *thinks he preserved*, but of which he does not profess to be certain. He, nevertheless, denies absolutely that it was intended as a douceur or gratuity to Brown. Reeside states that Brown paid him one thousand dollars in part of this loan. But this transaction is the more remarkable when taken in connexion with another, testified to by Edwin Porter, which will be found in another part of this report. In that case, Brown was, shortly before and shortly after this transaction, the lender of very large sums of money to Porter, on interest.

It also appears that, in the spring or summer of 1831, Mr. Barry applied to Reeside, in Philadelphia, to assist him in negotiating an acceptance for 1,000 dollars, to raise some money for his (Mr. Barry's) individual use. Instead of doing this, Reeside advanced him the 1,000 dollars; and he stated before the committee that Mr. Barry paid it by his acceptance at a short date, which he (Reeside) negotiated in the Schuylkill Bank. On inquiry of the cashier of the Schuylkill Bank, we were informed that no such acceptance was negotiated there. Your committee, having collated the evidence touching these transactions, leave them without comment.

In some of the contracts above examined, and many others that passed under the notice of your committee, very large sums of money have been paid by the Department, for the establishment of a *second*, and sometimes a *third*, daily line on the same route.

When the contracts for a regular daily mail have been advertised and let out pursuant to law, your committee can look upon these expenditures in no other light than that of an enormous waste of the public funds. Take, for example, the case of the contract from Philadelphia to Pittsburg, and from Pittsburg to Washington, brought up, as we have already shown, from 8,250 dollars to 40,150 dollars—while a single mail, each way daily, on that line, is all the public service, or the business of the country does require, or ever has required. Additional lines of stages there are convenient only for the transportation of passengers, and, whenever the bu-

siness of the country requires them, they spring up of themselves without the aid of Government. And those opposition lines, which are got up by individual enterprise, serve the interest of the travelling public as well, and perhaps better, than the additional daily lines of coaches, all subject to the control of the same individuals, which, under the name of additional mails, are sustained by enormous bounties out of the public purse.

The monopoly set up by the establishment of these *additional* daily mails, and *express* mails, is of the most pernicious tendency. They enable the large mail contractors to put down and ruin any man who shall attempt to compete with them in the transportation of passengers; and thus, for want of that wholesome competition which the natural course of things would otherwise create, are travellers delivered over to the mail contractors and their servants, as a kind of property, to be dealt with, and disposed of, for the time being, according to their good pleasure.

It is not the purpose of your committee, by these remarks, to arraign the conduct of any class of individuals. These men, like all others, pursue their own individual interest, and many of them labor assiduously for the comfort and accommodation of the public. It is our purpose to mark the general tendency of things, and few travellers can have failed to observe that the comfort and convenience of the passenger in the mail stage is promoted by the existence of an efficient opposition on the same route.

But besides the general effect of these second and third daily mails to put down opposition lines, an agreement, of which that is one of the avowed objects, entered into between two large companies of contractors, each running those additional lines, and each in the receipt of very large extra allowances, appears to have been made with the approbation of the Department, and filed among its archives to be safely kept and officially enforced. In one clause it binds the contracting parties, under a penalty, to transport no passengers for less than a stipulated price. It also binds them to use their efforts to put down an opposition line which appears to be established on one of their routes, and *not to receive any passengers who shall have been carried on any part of the route in an opposition coach.*

Your committee have caused a copy of this agreement to be appended to this report, and they are of opinion that, as an act countenanced, encouraged, or sanctioned by the Department, or any of its officers, it is, in the above-mentioned particulars, an unjust invasion of private rights.

The express mails which have been above noticed by your committee, are, as far as they can ascertain, nothing more nor less than another line of mail coaches, sent for no special purpose, or on any special emergency; probably applied for because it was found *profitable* to run a third line of coaches for the transportation of passengers, and granted because they were applied for. Your committee look upon the expenditure of money to establish these second and third daily lines in no other light than that of a premium paid by the Department to one line of passenger-coaches, tending to give it the ascendency over every other line. A striking case, in illustration of this view, occurs in the agreement above referred to. Stockton and Neil are the contractors on the line from Washington, Pennsylvania, to Wheeling—Reeside and others are contractors on the route from Philadelphia, by Pittsburg and Washington, *to Wheeling;* thus running two mail lines from Washington to Wheeling upon the same road. By the agreement referred to, Reeside stipulated to run that route no oftener than each alternate day; in consideration of which, Stockton and Neil agree to carry Reeside's mail on each of the other alternate days, without compensation, except at the option of Reeside. The transportation of the mail is treated as a mere incidental business, not worth serious notice in a contract about passengers and opposition lines.

R. C. Stockton and Wm. Neil contracted to carry the mail from Cumberland to Wheeling; from Washington, Pennsylvania, to Steubenville; from Baltimore to Cumberland; from Washington city to Frederick, and from Frederick to Winchester, from the 1st day of January, 1832, for four years, (see report of April 18, 1832, Doc. 212, p. 12,) at the annual compensation of $7,000

But the contract was in fact executed, giving them a yearly compensation for the same line, with some variations, at - - - - - $15,500

And for increased expedition,* and increased number of trips, making two lines of stages daily—which additional lines were, as is believed, wholly unnecessary for the public service—they were allowed extra the yearly sum of - - - - - 22,962

Thus, upon a contract for 7,000 dollars, made pursuant to law, the Department has, by means of hypothetical bids and extra allowances, transferred to the hands of these individuals the yearly sum of - - $38,462

R. C. Stockton and Wm. Neil were also contractors for carrying the mail on seventeen mail routes, stated in the report of April 18, 1832, (Doc. 212, p. 17,) at the annual compensation of - - - - - $30,000

† The contracts, however, appear to have been so modified and adjusted, after the acceptance of the bids, as to give them on the same routes the annual compensation of - - - - - - $50,410

And they were allowed for extras, including an allowance for *tolls* and *ferriages*, yearly 18,596

Making an aggregate of - - - $69,006

Being and advance upon their regular legal contracts of - - - - - $39,506

The advance upon the other contracts above referred to is - - - - - 31,462

Making the yearly advance allowed on the two contracts of - - - - - $70,968

Which, during the four years of their continuance, amount in the aggregate to - $283,872

And this given without advertising and without competition.

‡ R. C. Stockton is contractor for carrying the mail on routes Nos. 1,105, 1,111, 1,219, 1,371, 1,372, 1,387, 1,391, 1,395, 1,396, 1,397, 1,398—24 miles daily, 61 miles thrice a week, 98 miles daily, 38 miles daily, 70 miles daily, 54 twice, 58 miles daily, 24 miles once, 15 miles once, 30 miles once, at - - - - $14,950

This contract has no schedule attached to it, and on its margin it has this memorandum: "All the improvements in this contract were ordered by the Postmaster General from the beginning; he is therefore entitled to the stipulated sum of $20,150 per annum additional."

It is also noted on the contract, and stated in the report of March 3, 1834, (document 138, page 251,) that the express mail from Baltimore to Lancaster *is discontinued*, but no mention is made in that report or elsewhere, as your committee can discover, that such express mail was ever established. The improvements for which this enor-

* Doc. 138, p. 204.

† Rep. of March 3, 1834, doc. 138, p. 210, 211.

‡ April 18, 1832, Doc. 212, p. 8.

mous sum of $20,150 was allowed, are not indicated in any report made to Congress. In the report of the 18th of April, 1832, the contract is set down at $14,950, and nothing is any where said to to the public of increased service or increased compensation. The extra amount thus paid on this contract, without legal warrant or adequate consideration, during its continuance four years, is 80,600 dollars, besides the $3,150 a year paid for the express mail on the same line.

In the above case, it will be perceived that the contract is, in the aggregate, for eleven mail routes; so interweaving and complicating the transaction as to render it exceedingly difficult to unravel it, and to find whether the bids at which the routes were struck off are the most favorable for the Department; and still more difficult is it to ascertain the reality of any alleged improvements, and their actual value, if they exist. The same objection occurs in numerous cases. Improvements are said to be made by expediting on one route, changing the schedule on another, and ordering additional trips on a third; so that a single contract is, in this manner, rendered so complex as to require the labor of several days to reduce it to its elements, and ascertain its true condition.

E. Porter & Co. are contractors for carrying the mail from Staunton, in Virginia, to Catlettsburg, Kentucky, three times a week, in four-horse post coaches, from the 1st of January, 1831, to the 31st of December, 1834, at an annual compensation of $7,566.

On this contract, legal and regular in its inception, are ingrafted extra allowance compensation for extension and private contracts to the enormous yearly sum of $18,156.

The two largest of the items which compose this extra sum, namely, $2,000 for extending a steamboat mail between Guyandotte, Virginia, and Cincinnati, Ohio; and $11,000 a year for extending the steamboat mail to Louisville, is, in the opinion of your committee, not only an unnecessary and extravagant expenditure of the public funds, but is an act wholly unauthorized by law.

Every one acquainted with the situation of the country, and the course of business between those points, will be at once satisfied that it is unnecessary. It is wholly immaterial whether the mail be carried between those points in a two-horse coach or in a steamboat, provided it be carried safely; and the lines on which it was carried before the establishment of this route were ample for that purpose. No one travels in stages from Guyandotte to Cincinnati, or from Cincinnati to Louisville; and the aid of the Department is not necessary to keep up a constant and regular communication by steamboats between them. The establishment of this line was therefore unnecessary, either for the transportation of the mail or the accommodation of passengers.

It was also against law. The general act of the 3d day of March, 1825, reducing into one the several acts regulating the Post Office Department, in its first section, enacts that the Postmaster General "shall provide for the carriage of the mail on all post routes that are or may be established by law." This clause contains his whole general authority for contracting for the transportation of the mail, and this does not authorize the setting up of this line of steamboats, inasmuch as the Ohio river between these points is not a legal mail route. But the authority here exercised may be supposed to be conferred by the fifth section of the act, which provides "that the Postmaster General be authorized to have the mail carried in any steamboat, or other vessel which shall be used as a packet in any of the waters of the United States, on such terms and conditions as shall be considered expedient, provided that he does not pay more than three cents for each letter, and not more than one-half cent for each newspaper conveyed in such mail." But it is perfectly clear to your committee that this provision of law was never intended to authorize, and does not authorize, *the establishment of a steamboat line by contract for the purpose of carrying the mail:* the whole frame and language of the section forbids it. "The Postmaster General is authorized to have the mail carried in any steamboat which shall be used as a packet." He may avail himself of such means of transportation when he finds it already existing, but he is not authorized to incur the expense of providing it. The law also provides that he shall not pay more than three cents for each letter, nor more than half a cent for each newspaper so carried—a restriction wholly inconsistent with the supposition that he had power to get up steamboat lines by contract for the transportation of the mail. And the reason that this is not permitted is obvious: the expense of getting up a steamboat line, by contract, for the transportation of the mail, is enormously disproportioned to the object; while, at the same time, the Department may avail itself most advantageously of an existing line of packets for the cheap and expeditious transportation of the mail. The fifth section of the act, above referred to, is a transcript of the third section of the act of the 27th of February, 1815. And while the last-named act was in force, it was thought expedient by the Department to contract for carrying the mail from New Orleans to Louisville by steamboats; but, as the power was not supposed to be conferred by that law, a special act was passed on the 2d March, 1819, authorizing such contract, with the express proviso that the whole expense of sending the mail in steamboats should not exceed that of transporting the same by land. In the steamboat contracts made by the present Postmaster General, not the slightest attention is paid to the restrictions in either of the above-named statutes, and the sum paid for the transportation of the mail from Cincinnati to Louisville consumes greatly more than half the nett revenue received by the Department in both those cities.

There is another transaction with the same individual which is liable to the same and still stronger objections.

It seems that a person by the name of Rhodes undertook to carry the mail from New Orleans to Mobile, but failed, and gave up the contract. Afterwards, Messrs. Stockton and Stokes, James Reeside, and Avery and Porter, undertook to carry the mail on the same route, three times a week, in steamboats, for $25,000 a year. They also failed to comply, and their contract was also given up. Edwin Porter then undertook, by private agreement with the Department, to carry the mail daily on that route, in steamboats, for four years, at $40,000 a year; which agreement is still subsisting. Within the last year, there were 150 failures on this improved line, for which the contractor says he is fined on the books of the Department $6,800; yet no part of this sum appears to have been retained out of his pay; on the contrary, he was permitted to overdraw very largely, and his draft for $20,000, accepted by the Postmaster General, and not yet paid, was discounted some time since at New Orleans, to enable him to raise money to go on with the contract, which was likely to fail by the unskilfulness and inefficiency of his agent. This contractor (Edwin Porter) is also the borrower of large sums of money of Obadiah B. Brown—$3,500 early in the year 1832, and $4,500 in November, 1833; making an aggregate loan of $8,000.

The waste of money on this contract is enormous. The nett proceeds of all the postages in the city of New Orleans, and the town of Mobile, are hardly sufficient to sustain it. The law has been violated by entering into a contract to get up a steamboat line for the transportation of the mail, without any regard to legal restrictions. It was violated by the Department when it entered into a contract for the transporfation of the mail without an advertisement inviting public competition. And there is another feature in this and some other cases which your committee have examined, which, in their opinion, is deserving of the most decisive condemnation: it is the blend-

ing and connecting the fiscal affairs of the Department with those of individual contractors. Thus, while advancing its funds, and lending its credit to this individual to enable him to repair his errors and carry on his contract, the Department itself did, in several cases, call in the aid of other contractors to assist it in raising money to pay its ordinary and current expenses. Two instances of this kind are stated in the testimony of James Reeside. About two years ago, he drew a draft of $6,000, at the request of the Department, and for its use, and got it negotiated at the Western Bank of Philadelphia; and some time last winter he "arranged" $10,000 through the assistant postmaster at New York, for the use of the Department. No other cases of the like kind are distinctly in evidence before the committee, but, from general information, they believe the practice to have prevailed to a considerable extent. Your committee condemn this practice most decisively. In their opinion, it is placing the Department in an improper and injurious connexion with individuals. As a matter of mere prudence, independently of the question of power, it should neither venture its own money or plight its credit, to sustain any individual, much less should it ask pecuniary assistance of its contractors, to enable it to keep up its credit. Those contractors should be required to do their duty, and they should be asked for nothing more. Favors are expected to be reciprocal; and if the Department ask and receive them, it cannot deny them when something is asked in return. But the Department has placed itself in this undignified relation with its contractors. It has become the acceptor for one to enable him to sustain his credit and carry on his contract; and it has become the debtor to another for his name, to enable it to raise money to answer its own pressing necessities. The relations in which it is thus involved are partly the cause and partly the consequence of its present insolvent condition. The individuals who, variously connected and combined, hold extravagant private contracts, and who receive extra allowances, which exhaust the revenues of whole States, are the same who lend their credit to keep up the credit of the Department—who furnish funds to pay off the debts and relieve the embaarassments of its chief officer—who advance large sums of money to enable another of its officers to purchase real estate "at a reduced price," and who send presents of choice wines to furnish the tables of both.

William Smith is the contractor for carrying the mail from Washington city to Lynchburg, (document 138, page 157,) 200 miles, three times a week, in four-horse post coaches, at the yearly compensation of -	$6,000 00
He was allowed for two changes of schedule, the propriety and utility of which is not shown, $800 and $300, - - -	1,100 00
For a daily mail from Washington to Warrenton, fifty-two miles, - - -	1,200 00
A daily mail from Warrenton to Orange court-house, forty-four miles, - - -	1,600
And a daily mail from Orange court-house to Lynchburg, 106 miles, - - -	4,000 00
Making an extra allowance, yearly, of -	7,900 00
The four additional trips per week were relinquished on the 1st December, 1833, in consequence of the insolvency of the Department, and there was deducted from the extra allowance - - - -	4,900 00
Leaving for no known increase of service, the yearly allowance of - - -	3,000 00
If we admit the change of schedule to be a meritorious cause for the allowance of -	1,100 00
The contractor is, in that case, released from all his additional trips, for which he was allowed $6,800, and his compensation is reduced, in consequence of it, but $4,900; leaving him an additional yearly allowance of - - - - - -	1,900 00

For which no service whatever is rendered.

There is also an extra allowance of $975 made to William Smith (document 138, page 166) for an extension of his line from Dobson's cross-roads to Lexington, North Carolina. Prior to this arrangement, this mail went on the route from Dobson's cross-roads to Salem, and from Salem to Lexington, which increased his distance only seven miles, passing through a very flourishing town. This extension, as it is called, was therefore wholly useless, except so far as it served the convenience of the contractor, and enabled him to draw off upon his newly-adjusted line the passengers which had theretofore gone upon the old line of Peck and Wellford. It does not touch a single post office in the twenty-five miles which is not also passed on the regular mail route established by law.

The extra allowances made on this route of William Smith, (doument 119 of 1830 and 1831,) from Washington until it unites with the route of Peck and Wellford, at Lexington, North Carolina, was $8,875, as stated in the report of the 3d of March, 1834. The true sum is believed to be larger, but taking that to be the actual amount, the *extra allowances* exceed the whole nett proceeds of postages on that line from Alexandria, where it first diverges from the line of Stockton & Co. to Lexington, where it unites with the line of Peck and Wellford, by more than $2,000, including all the postages of the large towns of Warren, Charlottesville, and Lynchburg.

E. P. Johnson is the contractor for carrying the mail on several routes in Indiana, numbered 11, 17, 19, 23, 24, 25, 27, and 41, from the 1st of January, 1830, to the 31st of December, 1833, at a yearly compensation of $3,300. There are no less than *eighteen* different modifications and additions to this single contract, for which he receives in the aggregate, yearly, $14,502 18, in addition to what he receives by contract—amounting in the four years to $58,008 72; and all this by private arrangement, without advertisement or competition.

The nett amount of postages received in the State of Indiana, according to the report of the Postmaster General of the 28th of February, 1831, was $9,609 67, falling short by $4,892 51 of paying the yearly *extra allowance* on this single contract. The increase of the postages during the continuance of the contract will not, in all probability, bring up the receipts to a sum sufficient to discharge these extra allowances in the four years by the nett proceeds of postages for the same four years in the whole State.

* E. P. Johnson, John Hutchins, Joseph H. Hough, William Henny, and J. C. Chiles, are stated in the report of the Postmaster General of the 18th of April, 1832, (document 212, page 22,) as contractors for carrying the mail from Maysville to Louisville daily; from Frankfort to Nashville three times a week; from Louisville tf Nashville six times a week, and from Lexington to Bean station six times a week, in four-horse post coaches, at the annual compensation of $37,760.

Your committee called for the bids pursuant to which this contract was made, and they find those that are marked accepted as follows:

1731. From Maysville to Louisville daily, in four-horse post coaches, one hundred and forty miles; also, from *Lexington to Frankfort*, thirty miles: E. P. Johnson's bid, ("accepted and executed,") - - -	$4,500 00
1740. From Frankfort, Kentucky, to Nashville, Tennessee, three times a week, in four-horse post coaches, two hun-	

* Nos. 1731, 1740, 1741, 1742, and 1746.

	dred and six miles, Hough & Chiles, 1740 and 1741 improved; ("accepted and executed,") - -	7,080 00
1746.	From Lexington to Bean's station, one hundred and seventy-one miles, twice a week, in four-horse post coaches, J. G. Chiles, ("accepted and executed,") - - -	6,500 00
1742.	From Louisville to Nashville, one hundred and seventy-four miles, in four-horse post coaches, six times a week, to Bowling Green, and the remainder three times a week, E. P. Johnson & Co., ("accepted and executed,") - - - -	4,500 00
	Amounting in the whole to -	$22,580 00

Being less than the sum reported by the Postmaster General in his report of April 18, 1832, by $15,180.

Opposite the accepted bid on route 1742, from Louisville to Nashville, is noted in red ink, "to run alternate between Franklin and Russelville at pro rata allowance," showing that one of the routes which he run from *Bowling Green to Nashville* under this contract, passed through *Russelville.*

1743.	And in document 212, page 23, of April 18, 1832, we find that John Gray receives on the route from *Bowling Green* to Nashville, - - -	2,980 00
	And by the report of the 3d of March, 1834, (document 138, page 218,) he appears to be allowed for running three additional trips from *Bowling Green* to Russelville, on the same route, - - -	1,019 55
	Amounting to - - -	$3,999 55

So it appears that John Gray is paid three thousand nine hundred and ninety-nine dollars and fifty-five cents for carrying the mail from Bowling Green to Nashville, on the same route on which it is carried by E. P. Johnson & Co. as above.

James F. Robinson contracted to carry the mail daily, in four-horse post coaches, from Cincinnati, Ohio, to Georgetown, Kentucky, seventy-two miles, in fourteen hours, at a yearly compensation of 1,000 dollars. His schedule was so changed that he was required to run through in twelve hours, instead of fourteen, making part of the trip in the night; for which he was allowed the *additional yearly* compensation of 3,000 dollars. It is not perceived by your committee that the change of a schedule was at all essential to the public interest.

One among the many contracts of Avery, Tompkins, & Co., and others who are connected with them, and whose contracts are interlaced with theirs, is taken as a specimen of another very large class of cases—a leading feature of which is complication and confusion.

The annual report of the Postmaster General of the 25th of February, 1831, states that E. Porter, James Reeside, John H. Avery, Isaac Tompkins, D. A. Saltmarsh, Charles P. Mallett, John McLean, and Sidney Porter, are contractors on routes 1901, 1902, 1903, 2047, 2101, 2102, 2104, 2105, 2254, 2255, 2352, 2353, in stages and steamboats, at 67,950 dollars yearly.

The Postmaster General, in his report of 3d March, 1834, (document 138, p. 144,) states that Avery, Tompkins, & Co., are contractors on routes Nos. 1903 and 2101, at a compensation of 24,000 dollars; and they receive, for divers improvements on routes Nos. 1903, 2101, and 2102, which are all included in the grand aggregate of contracts above named, and also for improvements on 2107, *which is not included* in it, an extra allowance yearly of 13,500 dollars. Thus first grouping, and then dividing into smaller groups, and confounding one group of contracts with another, until it becomes impracticable to trace and reduce to their elements their multiform transactions.

After several other extras for improvements which result in daily mails, with increased expedition on these routes, and an increased allowance of 11,000 dollars a year, there occurs this extraordinary allowance:

"For running, besides a tri-weekly line in a *four-horse wagon*, so as to exclude passengers, and *ensure* the regular arrival of the mail during the winter season, they were allowed, from December 1, 1832, an additional compensation, at the annual rate of 2,500 dollars." Thus, after paying these individuals a large compensation by contract for carrying the mail, and giving them further large extra allowances for carrying it, they are paid 2,500 dollars a year further extra, *for carrying it in a wagon.*

In examining the proportions which the money paid for the transportation of the mail bears to the receipts for postages in particular districts of country, and even in whole States, the disproportion is in some cases remarkable.

The extra allowances of E. P. Johnson, on one single contract, as has been shown, consume the whole revenue of Indiana.

The extra allowances of contractors in Virginia fall short but three hundred and thirty-five dollars, of swallowing up the whole revenue received by the Department in that State.

In North Carolina, the extra allowances fall short of the nett receipts for postages six hundred dollars.

In Alabama, the extra allowances are to the nett proceeds for postages as two to one.

The whole nett proceeds of postages in Virginia, as appears by the Postmaster General's report of the 28th of February, 1831, was $79,262 91. The whole cost for transportation in that State, by the contracts of October, 1831, and allowances and extra allowances made to contractors, is 233,959 dollars: falling short but 3,829 dollars of three to one.

The whole nett receipts in Alabama were 22,678 dollars. The cost of transportation within it is reported at 157,566 dollars: being something more than five to one.

These estimates are subject to variation equal to the increase of postages in those States from January, 1830, until the contracts took effect, and the extra allowances were made. When those corrections are made, the disproportion between the nett receipts for postages, and the expenditures in those States, though lessened, will still be enormous.

The law contemplates that on new routes, and consequently in new States, a considerable expenditure should be allowed over and above the amount of receipts; but even where the money is fairly and judiciously applied for the benefit of the public, there is a limit beyond which such expenditure is not permitted to pass without the consent of Congress. By the thirty-ninth section of the act of 1825, reducing into one the acts regulating the Post Office Department, it is provided "that it shall be the duty of the Postmaster General to report annually to Congress every post route which shall not, after the second year from its establishment, have produced one-third of the expenses of carrying the mail on the same."

If this provision of law had been attended to, the aggregate of the routes in Indiana, Illinois, and Alabama, ought to have been reported as unproductive routes; and Kentucky, Tennessee, North Carolina, and Virginia, would but just have escaped its provisions; the expenditure in each of these last-named States being more than double the amount of receipts.

There are two States which lie side by side, nearly equal in population, extent of territory, and in the reve-

nue which they yield to the Department, which show a remarkable difference in the sums paid in each for the transportation of the mail.

In Vermont there was received for postages, as appears by the report of February 28, 1831, nett,	$17,663 72
In New Hampshire,	16,338 82
Difference in favor of Vermont,	$1,324 90
There is paid for transportation in N. Hampshire,	$38,818 96
In Vermont,	23,208 66
Difference on the other side,	$15,610 30

Your committee find no good reason for this disproportion of expenditure in these two States.

Mr. Jefferson, in his letter to Nathaniel Macon, of May 14th, 1801, says, that "a very early recommendation had been given to the Postmaster General to employ no printer, foreigner, or revolutionary tory, in any of his offices." His reason for the exclusion of the printer from any connexion with the Post Office Department is obvious; and if we would preserve the press from corruption, and prevent it from exerting a corrupting influence over the community, that recommendation ought to be esteemed as a precept, and religiously observed in the present and in all future times. But this admonition has passed unnoticed, or is disregarded, by those who now conduct the affairs of this Department. Large sums of money appear to have been expended in such a manner, that the obvious tendency of the expenditure is, to extend the influence of the Department over the public press, and through that press over the people.

William Smith, whose extra allowance, as stated in the Blue Book, (pp. 256 and 258,) amounts to 11,129 dollars a year, is the proprietor of an efficient party press in Culpeper county, Virginia.

Horatio Hill, said to be the conductor of a violent party press in the State of New Hampshire, is a contractor to carry the mail on no less than fifteen mail routes; and instead of extra allowances, his contracts are noted in the margin "WITH NEWSPAPER PRIVILEGE," which we understand to mean the privilege of carrying and distributing newspapers at pleasure on his mail routes.

Hay and Bennett were contractors for carrying the mail from Bellefonte to Meadville, in the State of Pennsylvania, from the 1st of January, 1828, to the 31st of December, 1831. On the 5th of January, 1830, they obtained an extra allowance of 500 dollars a year for increased expedition, and it is said that Bennett thereupon purchased an opposition press in Meadville, and arrayed it at once on the side of the administration.

At the lettings in October, 1830, this route was advertised to run through in two days and seven hours. E. Platt & Co. bid for it at 1,980 dollars; Moore, Libo, & Co. at 2,450 dollars; and Benjamin Bennett at "350 dollars, pt. 525 $700," in broken bids, equal, it is believed, to 1,575 dollars for the whole route. The bid of Benjamin Bennett is marked accepted, and the acceptance erased, and that of J. B. Bennett (the owner of the press) is accepted at 3,500 dollars, through in two days. But the schedule, which appears to have been made out at the time of executing the contracts, states that, on account of the unusual freshets and destruction of bridges, and other material changes in the road since the 15th of October, 1831, it is agreed to run the mail through in *two days and a half* each way, making five hours longer time than it was fixed at by the advertisement, and proposed for by the other bidders. Supposing the bid of Benjamin Bennett to be fictitious, or made by arrangement, merely to enable the Department the better to transfer the contract to J. B. Bennett, there is still a difference between the next lower and valid bid, and that at which it was struck off, of 1,520 dollars a year, equal in four years to 6,080 dollars, which appears to be the extra expense incurred by the Department to place this contract in the hands of a newspaper editor.

The "*incidental expenses,*" comprehending the *secret-service* fund of the Department, present an interesting subject for consideration. No law appropriates money for those expenses. Congress exercises no control over them. The Postmaster General, at his mere discretion, selects the objects of his patronage, which he dispenses from the revenue derived from postages, and is guided by that discretion alone in fixing the amount of that patronage. He may employ one printer and one travelling agent, or one hundred of each at his pleasure; and he may pay each of them as much as he pleases. If, by the improper exercise of this and his other unrestrained powers, the Department becomes bankrupt, then, by the construction which he bestows on the constitution, he (not Congress alone) may borrow any amount of money, on the credit of the nation, to supply the deficiency. Subjoined is a statement of these incidental expenses from the year 1790, prepared by a clerk, at the request of the committee, accompanied by a view of the "*contingent expenses,*" and of the sums appropriated by law for the salaries of the officers of the Department, which must not be confounded with the "*incidental expenses.*" By this the Senate will perceive that, from a sum less than two thousand dollars, these expenses, under former administrations, gradually increased for many years, there being an average annual addition of about one thousand dollars. In 1829, they had swelled to the sum of 56,471 dollars, exceeding the sum expended in any former year; and in the year commencing July 1, 1832, embracing the period of the last presidential election, they amounted to about 88,000 dollars, being a sudden increase of near 20,000 dollars over the corresponding expenditures of any former year.

Of these expenses, no detailed account is required to be rendered to Congress—no report of the various items which form their aggregate amount is published. The money to defray them constitutes what may be emphatically called *the secret-service fund.* The fund commonly so called, which is placed in the hands of the President to defray the contingent expenses of foreign intercourse, is not so properly entitled to the appellation. *That fund* is limited in its amount by the will of Congress, whose approbation is requisite to its existence. *This* fund is unlimited by aught but the will of him who uses it, and is as free from the control of law as if it were the treasure of an independent government. *That* fund is also limited by the acts of appropriation to a certain object. *This* has just so many objects as the Postmaster General may select. Whatever expenses he chooses to consider as "*incidental*" to his Department, he pays, and the only account which he renders for it is confined to a line in his annual report, thus: "The incidental expenses for last year were 87,701 dollars." The consequence of this state of things is, that, while the secret-service fund in the hands of the President is 30,000 dollars, the fund expended during the current year by the Postmaster General for the "incidental expenses" of his Department has now increased, as appears by the estimate in his last annual report, to thrice that sum.

At an early day of the present session, one of your committee drew the attention of the Senate to this subject, by a resolution calling for an account of these expenses for the period intervening between the 30th of September, 1831, and the 30th September, 1833. Months elapsed before any answer was given to the resolution, although, as will be seen by reference to the length of the report of the Postmaster General on this subject, hereto annex-

ed, the whole of it might have been transcribed from the Post Office books, by a tolerable clerk, in one day. When, after repeated inquiries for this paper, it was at length, for the first time, communicated to the Senate, it appeared in *secret session*, in company with another paper giving an account marked "*confidential*." On the last paper, over which the veil of secrecy still hangs, your committee make no comment; but to the paper on which the injunction of secrecy does not rest, they invite the attention of the Senate.

While examining this document with a view to the correction of the abuses which it disclosed, the attention of your committee was arrested by the extent of official patronage to printers which it develops, and the amount of that patronage as exhibited in the "Blue Book." The resolution of Congress, of the 14th of July, 1832, directed that there should be included in the next (present) edition of this book a *correct* list of all printers *in any way* employed by any department or officer of the Government, within the period between the 30th of September, 1831, and the 30th of September, 1833, with *the compensation* allowed to *each*. The resolution of Congress, to enable the Secretary of State to comply with it, enjoins it upon the "several heads of departments directing or incurring the expense, to cause the list, and the matter thereby required to be added, to be lodged in the Department of State." The document in the Blue Book, (pages 182, '3, and '4,) entitled "List of all printers employed by the Post Office Department between the 30th of September, 1831, and the 30th of September, 1833, with the compensation of each," is the official paper furnished in obedience to this resolution, and is the first publication of any portion of the incidental expenses that has ever been made in obedience to the requisitions of law.

The object of the resolution was to interpose the check of public opinion to arrest the abuse of official patronage to printers, no other check having been provided. To the end, also, that this patronage might not be abused, without detection, by employing the owners of the press, in *any other way* than in printing, it is provided that the list to be furnished should embrace all printers *in any way* employed, with the compensation to each, no matter for what allowed. If a printer be a mail contractor, it was intended by the resolution that the fact should appear. If any one of those who control the public press enjoys for years a monopoly in supplying the Department with articles to the great profit of the contractor, the fact was designed to be shown, in order that the public might judge of the extent and influence of the Executive patronage over the press so controlled. But, so far from accomplishing this, or any other proper object of this part of the resolution, it has been the means of eliciting a report from the Post Office Department precisely adapted to mislead the public, in reference to the whole subject.

On the list of printers in the Blue Book, True & Greene, proprietors and printers of the Boston Statesman, are thus stated to be employed:

True & Greene, for printing blanks, -	$6,692 75
For advertising proposals, - - -	206 50
Total compensation reported in the Blue Book,	$6,899 25

But the exhibit now made by the account of the Department, hereto appended, shows that they have been employed during the whole time, (as the present Postmaster General had in fact before employed them,) in furnishing paper, printed blanks, and twine, to the amount of $29,907 75.

See the account for the following items:

1832. January 25. True & Greene's compensation for furnishing blanks, paper, and twine, to various post offices in New York and elsewhere, from 1st October to 31st December, 1831, inclusive, -	$3,944 10
May 9. True & Greene's compensation for furnishing paper and twine, &c., from the 1st of January to the 31st of March, 1832, inclusive, - - - -	2,144 35
August 27. True & Greene, do. for blanks, paper, and twine, to 30th June, 1832, -	2,824 10
Dec'r 15. True & Greene, do. for blanks, paper, and twine, from 1st July to the 30th September, 1832, - - -	2,455 05
1833. March 23. True & Greene, do. for blanks, paper, and twine, from 1st October, 1832, to 31st December, 1832, -	2,164 85
April 23. True & Greene, do. for blanks, paper, and twine, from 1st October, 1832, to 15th April, 1833, - - -	3,727 23
July 24. True & Greene, for paper, blanks, and twine, from 1st October, 1832, to 30th September, 1833, - - -	3,022 12
October 16. True & Greene, for blanks, paper, and twine, from 1st April to 1st October, 1833, - - - -	9,625 95
Real compensation, - - -	$29,907 75

So that the printers of "the Boston Statesman," thus employed by the Department, received compensation for the articles which they were employed to furnish, within the period named in the resolution, exceeding, by $23,008 50, the sums published by the Department in the Blue Book.

And from an accurate examination of the original vouchers for these payments to them, the following facts appear:

First, that the real sum paid for "the printed blanks," including the press work, type setting, and the paper on which the blanks were actually printed, was -	$16,463 25
And that the real sum paid for wrapping paper and twine, was - - -	13,444 50
	$29,907 75

So that the sum paid for the printed blanks alone exceeds the sums published in the Blue Book, by 9,564 dollars.

Secondly. It appears that the only evidence upon which these large sums were paid, is the certificate of Nathaniel Greene, the postmaster at Boston. He is the brother of Charles G. Greene, of the firm of True and Greene. He undertakes to certify, in all cases, that blanks, paper, and twine, were furnished to the various postmasters "in New York and elsewhere," of the quality stated in these vouchers. He is the same person who edited "the Boston Statesman," before that press was transferred to its present proprietors, and, from the information we have, it appears to us, that the postmaster himself was interested in it at the time of granting his certificates.

This is but one of a *class* of cases presented by "the incidental expenses," and we think it proper to remark, that, profitable as such contracts are, there is no competition admitted for them; no advertisement, or other notice invites other persons to enter the lists in rivalry with the favored newspaper editor upon whom such compensation is to be bestowed. Established in a city where its patronage from other sources than Executive favor was probably not very great, the press of "the Boston Statesman" appears by the vouchers and receipts, to have been sustained in the year 1832, when the last presidential election occurred, by the employment of its proprietors in rendering services to the amount of nearly sixteen thousand dollars, which were paid out of the revenues of this Department.

And now it also appears that Hill and Barton, (printers of the New Hampshire Patriot,) were allowed, during the same period when True and Greene were employed, $7,543 26 "for blanks, paper, and twine," of which $4,238 83 was for printing blanks, though the sums appearing in the Blue Book, as paid to them, amount only to $1,494 36.

Horatio Hill also had mail contracts for which he received 6,272 dollars, with "newspaper privilege," as we have seen, though the Blue Book does not notice the fact in the list of printers; and Hill and Abbott appear also on the list of mail contractors, both for Maine and New Hampshire, with Hill and Morse, T. S. Abbott and Co., Hill and Crane, and Bibbitt and Hill.

During the same period, Shadrach Penn, who is the printer and proprietor of the Louisville Public Advertiser, was employed to furnish blanks, paper, and twine, to the amount of $9,566 36, although in the Blue Book his name appears on the list of printers, as in any way employed by the Department, only for the sum of $2,297 91. Other sums were paid within the same period to other persons, for "paper and twine," amounting to $24,562 61. The sums allowed during these two years, as appears by the vouchers and accounts for printed blanks, paper, and twine, (not including the large sums paid to other editors for printing "mail proposals,") amount to more than seventy thousand dollars.

The account now exhibited by the Department shows that Francis P. Blair, editor of the Globe, received, from the 30th of December, 1831, to the 26th of October, 1833, inclusive, the sum of $21,634 90. He appears in the Blue Book for only $14,371 57. But as the Department, on the application of the committee, sent us only a part of the vouchers for this account, and deferred sending the rest until it is now too late to examine them in time for this report, we cannot say how far the official statement in the register is correct or incorrect. The rates at which this printer is employed are enormous, and, in our opinion, are not to be justified by reference to any thing which has occurred in the past history of this Department. We herewith submit a specimen of the rates paid him for advertising; and accompanying the same is a statement of the rates and sums allowed for printing advertisements in July, 1830. The sum allowed for printing these advertisements is, it will be seen, about four times the amount then paid for them. (See the statements marked X.)

During the interesting period between the 1st of July and the 30th of December, 1832, the "incidental expenses" were $22,958 07. Within that time $13,673 31 was paid for printing to the editors and printers of newspapers, besides $5,166 15 for other articles by them supplied. Of the sum so paid to printers, Francis P. Blair received $8,386 50 "for printing proposals for carrying the mail from the 20th of July, 1832, to the 11th October, 1832," a period of two months and twenty-two days. The period immediately preceding the presidential election was the time selected for paying from this Department to this single editor about one hundred and sixteen dollars for every day his paper issued from the press. At the same time "the mail proposals" appeared not only in the city prints, and others having extensive circulation in different parts of the country, but in the most obscure country papers, some of which, having consumed the aliment they fed on, have since perished for the want of it. We present a few examples, and inquire for what possible purpose, except that of supporting a party press, while an excited political canvass was proceeding in the State of New York, were the following expenditures made?

1832. Mack and Andrews, for publishing proposals for carrying the United States mail in N. York, Oct. 31, 1832	$365 25
Bryan and Lesph and Co., for ditto in New York, 10th September, 1832	441 90
James Stryker, for ditto, in New York, 29th November, 1832 - -	416 10
James Wright, for publishing in "Sandy Hill Herald," New York, proposals for carrying the mail in New York, 12th July, till September, 1832 - - - -	413 10
	$1,636 35

It will be seen, by reference to the account now furnished by the Department, that while the Globe weekly, semi-weekly, and daily, was publishing these very "mail proposals" for the whole Union; and while the Albany Argus and the Courier and Enquirer were publishing the same for the State of New York, and transmitting them to every part of the State from which a bid could be expected, these four papers, some of them scarcely circulating through a single county in the interior, and published two or three times a week, were kept up at an expense of $1,636 35 for two months' printing of the mail proposals for the whole State. For these and other similar expenditures, now brought to light by the document annexed, we can perceive no precedents in the former history of the Department.

The year 1832 was also distinguished by the amount of expenses incurred for the services of sundry agents and secret emissaries who were put in motion at an expense of nearly ten thousand dollars for that year. These trips of investigation do not all appear on the face of the account. The sum of $6,005 is credited for sums paid to S. Gouverneur, the postmaster at New York. From an endorsement on one of the vouchers to support this charge, it appears that he has received credit on the books of the Department for that amount, *by him paid*, for the incidental expenses of his office, from which we infer that, by the direction of the Department, he made these payments, and was allowed them on settlement for postages. Mr. Gouverneur is not responsible for these payments ordered by the Department. Among the receipts is one of P. S. Loughborough, travelling agent, for one hundred dollars paid him the 4th day of June, 1832; and seven of Barnabas Bates, another traveller, for $1,253 cash, paid him as "special agent," between the 1st of August and the 12th of December, 1832, inclusive.

Mr. Barnabas Bates, in October, 1833, presented an account, of which the following is a literal copy:

"General Post Office,

"To B. Bates, Special Agent, Dr.

"1833. April 30.

To services from July 1, 1832, to date, 304 days, at $3 per diem, - - -	$912 00
Do do expenses during the same, $2 50	760 00
Do do steamboat and stage fare, do	184 00
	$1,856 00

So that Mr. Barnabas Bates set a good price on his travels, and although, by an endorsement, it appears that Mr. C. K. Gardner, the first Assistant Postmaster General, doubted about the allowance of 50 cents of the $2 50 per diem for "expenses," in addition to the "per diem for services," and the "steamboat and stage fare;" yet, on putting the question endorsed on the voucher—"shall the additional fifty cents be allowed under the circumstances?" the Postmaster General underwrites—"allowed;" and on the 15th of October, 1833, Mr. Bates gives a receipt for a credit allowed him on account for the whole amount of 1,856 dollars. The most curious part of this matter, however, is, that the Department has direct-

ed Mr. Gouverneur to pay these agents for travelling, as it appears they did, as "special agents," in New York and New England, and then covered and concealed the charge under the name of "*incidental expenses of the Post Office at the city of New York.*" By the returns for the first quarter of 1833, it also appears that P. S. Loughborough, who receives an annual salary from the Treasury of the United States of sixteen hundred dollars as "general agent" of the Post Office Department, was paid in addition thereto the sum of $2,467 66 as "special agent," for expenses in travelling in Virginia, New York, and the Western States, per order of the Postmaster General, from 1st November, 1831, to 31st December, 1832, making the whole sum paid that officer during that period $4,067 66. During the same period, it will be seen from the account that other agents received $4,099 40, which, with the payment to Bates, made by Gouverneur, make $9,510 66 for travelling agents in about one year. It is in evidence before the committee by O. B. Brown, that Mr. Loughborough started on another trip of investigation about four weeks ago.

Finally, the incidental expenses from the 1st of July, 1829, to the 1st of July, 1834, by the returns made for the first four years, and the Postmaster General's estimates for the last, amount to the sum of $357,579 04; thus exceeding the incidental expenses of the five years previous to the 1st of January, 1829, by the sum of one hundred and sixty thousand five hundred and forty-one dollars. The necessity for legal restraint in this matter, we think too apparent to require further comment; and we now dismiss this part of the subject.

On the whole, your committee have found the affairs of the Department in a state of utter derangement, resulting, as it is believed, from the uncontrolled discretion exercised by its officers over its contracts and its funds; and their habitual evasion, and in some instances, their total disregard of the laws which have been provided for their restraint. And your committee see no means within the power of Congress of extricating it from its present condition, and restoring it to healthy and efficient action, without providing by law a more strict system for its government; prescribing to its officers more special rules for the performance of their several duties; taking from them, as far as possible, all discretion, where the acceptance of a contract or the disbursement of money is concerned; establishing a more strict system of accountability, and enforcing an observance of the laws by penal enactment.

Should Congress advance out of the treasury for the support of the Department, the sum of money asked for by the Postmaster General, or even the whole amount of its debts, it is not probable, while under the management of its present officers, with no other means than now exist to control and restrain them, that its debts would be liquidated, or its efficiency restored. Under this impression and belief, your committee cannot recommend the appropriation of any money to relieve the wants of the Department until there be some further guarantee for its proper and judicious application.

Your committee, reserving the right to make a further report on these subjects hereafter, respectfully recommend the adoption of the following resolutions:

1. *Resolved*, That it is proved and admitted that large sums of money have been borrowed at different banks by the Postmaster General, in order to make up the deficiency in the means of carrying on the business of the Post Office Department, without authority given by any law of Congress; and that, as Congress alone possesses the power to borrow money on the credit of the United States, all such contracts for loans by the Postmaster General, are illegal and void.

2. *Resolved*, That several reports of the Postmaster General contain statements which, in subsequent papers, he admits to be erroneous; that others, especially those of the 18th of April, 1832, and the 3d of March, 1834, are inconsistent with each other; and that reliance cannot be placed on the truth and accuracy of the communications made by the Department.

3. *Resolved*, That it is fully proved, that a practice prevails in the Post Office Department, of granting contracts on bids which vary from the advertisement, and of changing and altering contracts in material respects after they have been accepted; and that this practice prevents all fair competition among persons wishing to make contracts, is calculated to give undue advantage to favorites, and is in violation of law.

4. *Resolved*, That it appears that an individual, who made a contract for the transportation of the mail, was required to give it up for no other reason than that it might be given to another desirous of having it; and that the act of the Department in requiring such surrender, and in effecting the transfer, was illegal and unjust.

5. *Resolved*, That it appears that proposals for carrying the mail on the route from Chicago to Green Bay, were withheld from advertisement; that the contract therefor was given in another's name, but really to one of the clerks in the Department; that the compensation proposed in the bid was raised without any increase of service, and the transaction is a direct breach of law.

6. *Resolved*, That extra allowances have been granted to contractors, without any increase of duty or service on their part; and that, in other cases, extra allowances have been made which are unreasonable, extravagant, and out of all proportion with the increase of service.

7. *Resolved*, That the Postmaster General has established steamboat lines for the transportation of the mail by private contract at an enormous expense, and without authority of law.

8. *Resolved*, That the public credit has been pledged for the benefit of individual contractors; and that contractors have been solicited and induced to aid with their personal credit the business of the Department; and that all such transactions are unjustifiable and improper.

9. *Resolved*, That it does appear that mail lines have been established to run more frequently than once a day, and at a very heavy expense, when no adequate public object required such provision.

10. *Resolved*, That pecuniary transactions of a very irregular nature, are proved to have taken place between the contractors and some of the chief officers of the Post Office Department.

11. *Resolved*, That the Post Office Department is now deeply in debt; its affairs in disorder; its accounts and reports irregular and unsatisfactory; that it is justly the subject of public complaint, and demands a radical reform.

12. *Resolved*, That the incidental expenses and secret-service money of the Department have increased, are increasing, and ought to be diminished.

13. *Resolved*, That it does appear that an agreement was entered into between two companies of mail contractors, the express object of which was to put down all opposition lines of coaches, and all competition in the transportation of passengers on their respective mail routes; that said agreement was drawn by an officer of the Department, and entered into at his pressing instance, and that it was sanctioned by the Postmaster General; and that such agreement, so sanctioned, is an interference with the honest pursuits of the free citizens of these United States; that it tends to establish an odious and oppressive monopoly, and is an unjust invasion of private rights.

14. *Resolved*, That it does appear that mail contractors have received large extra allowances, and have, about the time of receiving such allowance, become the proprietors or conductors of newspaper presses of a partisan character. It also appears that a newspaper editor

in the State of New Hampshire is a contractor for carrying the mail on numerous routes, "with newspaper privilege;" and that every such act or artifice tending to unite the press with the Post Office Department, is a dangerous abuse, and ought to be corrected.

In Senate, *June* 9, 1834.

Mr. Grundy presented the following paper as containing the views of the minority of the committee, which was ordered to be appended to, and printed with the report of the majority.

The undersigned, two of the five members composing the Committee on the Post Office and Post Roads, to which was referred the resolution of the Senate of the 29th March last, directing an examination to be made into the present condition of the Post Office Department, differing essentially in their views from the majority of the committee, consider it their duty to present a statement of the result of their inquiries, which it is believed is fully sustained by the testimony taken, and by the books and documents of the Department.

The committee were agreed in the opinion, that it was a duty which they owed, no less to the Postmaster General himself, than to the public, to give all the branches of that Department as thorough an examination as practicable.

The first and leading point which attracted attention, was its financial condition. The report of the Postmaster General of November 30th, 1832, showed an expenditure, for the year ending 30th June, of that year, exceeding the amount of revenue for the same period, by $7,530 18. It also showed an increase, in the amount of mail transportation, within the same period, at the rate of 8,156,329 miles, equal to upwards of a million of miles more than half of the whole annual transportation of the mail in 1829. It also showed a surplus of available funds at the disposal of the Department, to the amount of $202,811 40. The report of the Postmaster General of November 30, 1833, showed that the expenses for transportation of the mail, prior to the 1st July, 1829, had been $64,248 76 more than had been reported; and, that the expenses for the same object from the 1st of July, 1829, to the 1st of July, 1832, had been $141,407 31, making together an expense of $205,656 07 beyond the amount which had been reported to the latter period. This exceeded the sum reported as a surplus on that day, and left an actual deficit, on the 1st of July, 1832, of $2,844 67 beyond the whole amount of available funds, including all postages which had accrued prior to that day. The same report showed an increase in the transportation of the mail, within the year ending the 30th June, 1833, at the annual rate of 3,229,464 miles; and an excess of expenditure beyond the revenue of the Department, to the amount of $195,208 40. The report also exhibited the annual expense of transportation to be, at the time of making the report $2,033,289 42, and the incidental expenses of the Department about $90,000, making together the aggregate expense, for the year which will end the 30th June, 1834, $2,123,289 42, while the nett proceeds of postages, for the year ending the 30th June, 1833, was but $1,790,254 65. This excess of expense must necessarily have continued to the close of the year 1833, from which period the retrenchments were to commence, which the Postmaster General stated in his report to have been directed. Taking the report for a basis on which to raise the calculation, and the expenses of the Department will have been, from July 1, 1833, to December 31, 1833, $1,061,644 71

The nett proceeds of postages for the same period, as nearly as can be ascertained are 941,368 61

Leaving a deficit for the half year, ending 31st December, 1833, of - - $120,276 10

Add to this the deficit existing July 1, 1833 195,208 40

And the total deficit on the 1st January, 1834, would be - - - - $316,484 50

The retrenchments which were to take effect from the 1st of January, of the current year, ought to have reduced this deficit below the sum of 300,000 dollars by the 1st of April. The condition of the Department appears to have been at that time, as nearly as we can ascertain, as follows:

Due to contractors, as per document No. 2, for services prior to January 1st, 1834 - -		$190,000 00
Ditto from January 1st, to April 1st, 1834		445,000 00
Total to April 1st, 1834 - -		$635,000 00
Due to banks for loans and over-drafts, 11th April, 1834 - - - -		451,599 48
Total amout due - - -		$1,086,599 48
Due to the Department, on 1st April, from postmasters and available,		
To January 1st, 1834 -	$300,000	$800,000 00
From January 1st, to April 1st, 1834, - - -	500,000	
Balance against the Department to April 1st, 1834, - - - - - -		286,599 48
To this must be added the interest, payable to the 1st of May, 1834, as per document No. 3, amounting to - - -		5,510 00
And the whole deficit is - - -		$292,109 48

In the above estimate of 300,000 dollars, due to the Department on the 1st of April last, of postages which accrued prior to the 1st of January, there is no possibility of testing its accuracy by any other estimate, because it is not an estimate of the postages that accrued from the 1st of October to the 31st of December, 1833, the greater portion of which had been collected before the 1st of April, but it embraces all the remaining balances due to the Department on the 1st of April, of all the postages which had accrued from the beginning of the Government, so far as they are believed to be available. It must be obvious, therefore, that no correct estimate can be made of their amount, without going over every account, many thousands in number, striking the balance of each, and adding these balances together. This we have not done, and the labor which it would require is so great as to render it impracticable at this time.

It is also proper to observe, that of the 500,000 dollars, estimated as the proceeds of the quarter ending on the 31st of March, 1834, a part had been paid over by deposites to the credit of the Department, before the termination of that quarter; but so far as they had been thus paid over, they had been applied to the payment of claims against the Department; so that if their payment in part lessened the amount due to the Department, their application lessened in the same degree the amount due from the Department.

It should here be noticed, that many of the postmasters, in the most productive post offices, are required, by the regulations of the Department, to deposite to its credit in bank, a portion of the proceeds of their offices before the close of the quarter. Some of these make their deposites weekly, some monthly, and some not till after the end of the quarter. Of the postage collected at the several post offices, it is estimated that about one-half, or a little more than one-half, is deposited in banks, and the remainder is drawn by drafts on postmasters in favor of contractors. Of the amount deposited in banks, it is estimated that about one-half is deposited before the

close of the quarter; so that the amount thus deposited of the current proceeds, before the close of a quarter, is estimated at about one-fourth of the whole proceeds of the quarter, and is available by the Department to the payment of transportation, for services rendered during the preceding quarter, the compensation for services for transportation rendered in one quarter being payable in the next. This, however, does not affect the means of the Department for meeting its engagements, because the same means recur by the current deposites, to an amount, at least equal, in every successive quarter. It would only produce this result: that if the Department were to close its operations, and wind up its business, at the termination of any quarter, it would be found about one month behindhand in its resources, beyond what it would be if its operations continued. These current payments have always been relied upon by the Department, and while it continues its operations, they can never fail. They do not, therefore, sensibly affect the statement of the present condition of the Department.

By the last report of the late Postmaster General, 17th November, 1828, the annual transportation of the mail, at that time, was 13,610,039 miles. From the reports of the present Postmaster General, which report is corroborated by a statement of all the mail routes, with their distances, and the frequency of transportation on each, it appears that the annual amount of transportation of the mail, on the 1st July, 1832, was 23,625,021 miles; and on the 1st July, 1833, it appears to have been further increased to 26,854,485 miles, nearly double the amount of what it was when the present incumbent took charge of the Department. It also appears, from the report of the Postmaster General to the Senate, of the 3d of March last, that the whole amount of allowances to contractors for extra services, by which this great increase of transportation was mainly effected, was $485,662 41 per annum. To this sum should be added the expense of carrying into effect the law of the 15th of June, 1832, establishing additional post routes, which is estimated in the report of 3d of March, (last page,) at $125,341 88. On those new routes, no revenue of any considerable amount could be expected for some time, especially for the first one or two years.

The allowances for these extra services (all taken together) appear to be quite within the bounds of moderation, when compared with the amount of additional services rendered; and taken in connexion with the expense of establishing the new mail routes, required by the law of 1832, and the loss of revenue occasioned by the extension of the franking privilege to members of Congress, throughout the year, and the circumstance of the expenses in 1829 being much greater than the revenues of the Department, the present deficit is fully accounted for. These extra services were designed for no other end than the benefit of the community. At the earnest solicitation of many citizens, urged in most cases by members of Congress, and others high in public confidence, the facilities were granted by the Postmaster General, and have been enjoyed by the community. In his great desire to satisfy the wishes of every section of the country, and to render the Department as extensively useful as possible, he has gone too far, because he has exceeded the moneyed means of his Department. But he appears, for the reasons assigned in his report which has been communicated to the Senate, to have been unapprized of the exact condition of the financial concerns of the Department, till the deficiency actually appeared. He then made the investigation, which resulted in disclosing the cause, and applied the corrective with as much promptness as the public interest would admit.

The want of a more perfect organization of the Post Office Department by law, is calculated to produce embarrassment, and often to subject its head to unmerited animadversion. The other Departments of the Government are organized with sub-officers, holding their appointments from the Executive, who superintend the different branches, and share the responsibility. The Post Office Department was but small in the beginning, and has grown rapidly into its present magnitude and importance. To this circumstance it is probably owing that it has hitherto been left without proper organization. The individual who may happen to be at its head, is held responsible for every thing; though its business is so multifarious and extended that no individual can possibly superintend all its branches. It was formerly the case that all its funds were at the disposal of a single person, without any check whatever upon him, or even the means of knowing whether the surplus funds were in deposite, or diverted from their legitimate object. The present incumbent has established a rule which is calculated to prevent abuse. No moneys can now pass into the hands of an individual, without the concurrence of at least two officers of the Department. If it be a payment for transportation, it requires the requisition of the principal pay-clerk, and a check signed by the treasurer and by an Assistant Postmaster General, before the money can be drawn. If for any other purpose, it requires the requisition of the Postmaster General himself, or an account audited by one officer, and approved by another, and a check in either case to be signed by both these officers, before the money can be drawn. This we conceive to be a very salutary improvement in the financial operations of the Department, and well calculated to prevent abuses; but as it is only a regulation of the Postmaster General, it is subject to change at his pleasure. He has indeed given to the system all the effect which he has the power of doing; but to give it permanency, so as to constitute a perpetual and effectual barrier against abuse, we are of opinion that it should have the saction of law; and that the officers exercising these powers should hold their offices, as in other departments, not at the pleasure of the person who may fill the place of the head of the Department, but of the President and Senate.

The last report of the late Postmaster General showed that the expenditures for the year ending the 1st of July, 1828, exceeded the revenues of the Department upwards of 25,000 dollars. Between that time and the following March, when he left the Department, the contracts had been made for the new routes, established by the law of 1828, involving a very considerable of expense. The present Postmaster General took charge of the Department in April, 1829, and his first report showed that the expenses of the Department for the year ending July 1st, 1829, were nearly 75,000 dollars more than all its revenues for the same period. Thus it appears that the course of administering the Department which produced the deficit in its means, began as early as 1827, or the commencement of 1828, and has continued from that period to the close of the last year. To meet the exigencies of the case, the Post General resorted to loans from banks, on which he had paid interest prior to the 1st of April last, $14,570 42, and the further amount which accrued to the 1st May, was $5,510, making together the sum of $20,080 42 interest to the 1st of May, 1834, as per document No. 4. These loans were made on the faith and credit of the Post Office Department, and not of the Treasury; yet, while the moneys of the Treasury are abundant, it does not seem to comport with good economy for one department of the Government to be paying interest to banks for the use of money, while money is deposited in banks by another department of the Government without interest. The committee therefore applied by letter to the Postmaster General for a statement of his opinion of the amount which would relieve his Department from pecuniary embarrassment. In answer to this inquiry, he stated that if, of the moneys

formerly paid by that Department into the Treasury, the sum of 450,000 dollars could now be placed at the disposal of his Department, it would effect the desired relief, and that he should be able to restore it to the Treasury in the following instalments, without injury to the successful administration of the Department.

On the 1st of July, 1835, - -	$150,000
On the 1st of July, 1836, - -	150,000
On the 1st of March, 1837, - -	150,000
	$450,000

We therefore recommend the passage of a law authoring the measure, to the amount and on the conditions thus stated by the Postmaster General.

The Postmaster General has been in the habit of reporting annually to Congress the contracts made for transporting the mail, with the name of each contractor, and the annual amount of compensation stipulated in the contract. In comparing the contracts made in the fall of 1831 with the report of the Postmaster General made to Congress in the beginning of 1832, it was found that in some cases the contracts, as they are in actual operation, do not agree with that report. An inquiry was instituted into the cause of this disagreement; and we were informed that when proposals are received for the advertised contracts, they are registered in a book called the "Proposal Book;" that when these bids are decided by the Postmaster General, the word "accepted" is written against the name of the person to whom a route is assigned; that this is regarded virtually as the contract, though sometimes the written instrument is not executed for months after; that from this proposal book the report for Congress is made out, the name of the person copied, and the sum at which the proposal was accepted; that sometimes modifications are subsequently made in the contracts, even before the services under them commence; and that in such cases there will appear a disagreement, as above stated. Upon further examination, we found that such had been the practice of the Department under former administrations; and as a proof of it, we state a few similar cases which we have noted from a comparison made by ourselves, of the contracts made by the Postmaster General in the fall of 1828, with his report to Congress, in the beginning of 1829. They are as follows:

Eli Ensign is reported as having contracted to transport the mail between Hudson and Pittsfield for 700 dollars a year; but his contract made in 1828 is for 1,000 dollars. Thomas J. Magee is reported as having contracted to carry the mail on several routes for 10,225 dollars a year; but his contract made in 1828 is for 11,843 dollars a year. Russell Case is reported as having contracted to carry the mail between Utica and Ithaca for 950 dollars a year; but the contract was made with Parker and Co. in 1828 for 1,425 dollars a year. Eli Ensign is reported as having contracted to carry the mail between Bridgeport and Bennington for 1,100 dollars a year; but his contract made in 1828 is for 1,250 dollars a year. He is also reported as having contracted to carry the mail between Hartford and Albany for 1,000 dollars a year, but his contract made in 1828 is for 1,500 dollars a year. Pettis, Day, & Co. are reported as having contracted to carry the mail between Boston and Windsor, and between Windsor and Burlington, for 3,000 dollars a year; but their contract made in 1828 is for 4,400 dollars a year. Hiram Plummer is reported as having contracted to carry the mail between Boston and Dover for 800 dollars a year; but his contract made in 1828 is for 1,250 dollars a year. In all these cases, the report to Congress is made to agree with the proposal book, though the contracts are differently executed. The fact is therefore established, that the report of 1832 was made in conformity with the ancient usage of the Department; and under this mode of reporting, a disagreement will exist whenever a modification of the contract shall be made subsequent to the acceptance of the proposal.

This practice, however, we consider erroneous, and are pleased to see that it is changed in the report of contracts made to the present session of Congress, in which, not the proposals accepted, but the contracts according to the changes and modifications afterwards made are reported; this is proper and necessary to enable Congress to have a full and correct view of the contracts and engagements made by the Department.

The Postmaster General, in his report of November 30, 1832, stated the annual transportation of the mail to be 23,625,021 miles, making an increase from 1829 of 9,925,021 miles. A suspicion had been intimated of the correctness of this statement; and on an investigation of the subject, the following appeared to be the facts:

The late Postmaster General, in his last report, November, 1828, stated, that on the 1st July, 1823, the annual transportation of the mail was,

In stages, - - -	4,489,744 miles,
On horseback, - -	5,511,496 "
That there had been added, from that time to July 1, 1828, in stages,	1,949,850 "
On horseback, - - -	1,658,949 "
This made the annual transportation of the mail on 1st July, 1828, -	13,610,039 miles.

The committee procured a list of all the post routes as they were in operation on the 1st of July, 1832, with the length of each, the manner of performance, and the frequency with which the mails were then transported, (Document No. 18,) from which it appears that the annual transportation of the mail on the 1st of July, 1832, was 23,632,330 miles; and that the increase to that period from the 1st of July, 1828, was 10,022,291 miles, exclusive of the additional extent occasioned by the underestimate hereafter pointed out. The report of 1832, made the whole amount of the annual transportation to be 23,625,021 miles, which is 7,309 miles less than the result of the calculation now made. This mode of ascertaining the amount of the annual transportation was deemed less liable to error, than any that could be resorted to. Besides, a further security for its correctness is furnished by the fact, that the length of each route is given, and the number of times the mail is transported thereon; so that any error contained in it may be easily detected. The fact of a discrepancy between the report of 1832 and the calculation now made, to the small amount of 7,309 miles in so many millions, affords strong evidence of its general accuracy, and especially when it is considered that the calculation now made and exhibited exceeds the amount then reported. The idea that the report of 1832, from any motive, placed the annual transportation of the mail beyond the true amount, is disproved by the fact, that it falls short of it by a calculation now made, from the most unerring data that can be obtained.

In this place we would state, that the committee employed Dr. Phineas Bradley, one of the late Assistant Postmaster Generals, who called to his assistance his brother, Abraham Bradley, the other late Assistant Postmaster General, to aid them in their investigations. It was supposed that the long experience of these gentlemen in the Department would enable them to prosecute some branches of the inquiry with more facility and success than could otherwise be done. The report of the result of their inquiries has been furnished the committee, and in comparing it with the reports of the Department, we discover a considerable discrepancy, for which we can readily account.

The Messrs. Bradleys observe in their report that the Postmaster General reported, in November, 1829, that

the whole length of post roads was 115,000 miles; in 1830, he reported them to be 115,176 miles; in 1832, he reported them to be only 104,467 miles; and in 1833, he reported them to be 119,916 miles.

The facts appear to be as follows: the late Postmaster General, in his last report, November, 1828, reported the length of post roads to be 114,536 miles. This must have embraced the new routes which had been established by the law of the preceding Congress, as it exhibited an increase of 9,200 miles greater than the statistical account of the Department showed for the preceding year.

The present Postmaster General, in his first report of November, 1829, assumed the last report of his predecessor as the basis of his statement. He did not question its correctness. He had estimated an addition of between four and five hundred miles in putting into operation a few additional routes within the year; making the total amount 115,000 miles. In 1830, he predicated his report on the same presumption, that the last report of the late Postmaster General was correct, and reported an increase of 176 miles, which had been added by the establishment of a few routes, to furnish the seats of justice of some new counties, which had been established in some of the States within that period; and by varying some of the old routes, so as to increase their distance, for the purpose of giving a mail to new settlements, or growing neighborhoods. This gave the number of 115,176 miles in 1830. In the mean time, he had caused route-books to be made, in which the names of the several offices on each route are given, the distance one from another, and the total length of each route; the length having been ascertained from the postmasters on each route, in consequence of circulars addressed to them by the Postmaster General. In 1832, he took the sum total of all these routes from the route-books, showing the whole length of all the post roads to be only 104,467 miles. The discrepancies which they (the Messrs. Bradleys) speak of, appear to have been occasioned by the estimate which had been made in the report of the late Postmaster General; and the diminution from 115,176 to 104,467, is produced by the present Postmaster General's correction, in giving the true amount of mail transportation, ascertained in the manner heretofore stated. The route-books are in the Department open to inspection, and if any errors exist in them, they are subject to correction. Between the report of 1832 and that of 1833, the new routes established by the law of 1832 were brought into operation, which added more than 15,000 miles to the length of post roads, and increased the total amount to 119,916 miles. The Messrs. Bradleys state that they have endeavored to ascertain the length of post roads in seven States and one Territory, by examining the advertisements for proposals, and when the distances are not advertised, by measuring the distances on the map; and in the result they have found a difference, or what they assert to be an error, of 4,195 miles. This is what might have been expected, when comparing their imperfect and uncertain method of calculating, with the correct method of the Department. They do not inform us what States and Territory they took, nor whether they included the new routes which went into operation in 1833; nor do they furnish us with any detail of the routes, with the length of each, as the Department has done. We have been furnished by the Department with a detail of all the routes, and the length of each, which certainly is the most satisfactory statement that can be given; but the Messrs. Bradleys state, that in seven States and one Territory, they have found an error, without pretending to have examined the whole of the several routes in detail as stated on the route-books, and without pointing out where the error lies. Every route in those States, and that Territory, which may have been subsequently established, or which is not included in the advertisement which they examined, must have been excluded from their calculation: and their admeasurement on the map must have been exceedingly imperfect, while the data on which the report of the Postmaster General is founded is clear and unexceptionable.

They next proceed to show that the increase in the transportation of the mail has not been so great as reported by the Postmaster General. They state that, by the last report of the late Postmaster General, the annual transportation of the mail was shown to be 13,709,039 miles. On reference to that report of 17th November, 1828, we find him to say, that on the first of July, 1823, the transportation of the mail was—

In stages, - - -	4,489,744 miles.
On horseback, - -	5,511,496 "
Since that time, there has been added—	
In stages, - - -	1,949,850 "
On horseback, - -	1,658,949 "
We find, by the addition of these sums, that the mail was transported in 1828, - -	13,610,039 miles.
And not, as they state, - -	13,709,039 miles.

This was taken by the Postmaster General as the basis on which he calculated the increase of 1829, '30, and '31. The document before referred to, (marked 18,) gives a statement of the length of each route, with the manner and frequency of transportation, showing the annual amount of transportation on each route. The sum total of these different routes, as they stood on the 1st of July, 1832, is 23,632,330 miles, the annual amount of the transportation of the mail at that time. The increase between that time and the 1st of July, 1833, occasioned by putting the new routes into operation, and by many improvements on the old routes, is stated to have amounted to upwards of three millions; making the total annual amount of transportation on the 1st of July, 1833, equal to 26,854,485 miles. To disprove the correctness of this statement, the Messrs. Bradleys report that they have examined the advertisements, and calculated from them the annual amount of transportation, and to this added the amount stated in the report of extra allowances, made to the Senate on the 3d of March last, which they assume to be the total amount of annual transportation. The incorrectness of their method must be obvious to every person who will make but a slight examination of the subject. Besides the inaccuracy of their distances, especially such as they ascertain by measuring the map, there are, and always have been, mail routes in operation, which are not in the advertisements. Some will be omitted in the advertisements by accident. Some additional routes will every year be required to supply new county seats of justice. But what will make a much greater difference is, that the advertisements invite proposals for improvements, such as running more frequently, extending routes to greater lengths, and other services to increase the transportation of the mail; also, the greater portion of steamboat routes are not advertised. The improved bids are frequently accepted, by means of which great alterations are made between the advertisements and the contracts, which will not be brought into view, either by examining the advertisements, or the report of extra allowances; because they are not contained either in the one or the other. Routes are sometimes advertised to run but once a week, and are contracted for to run three times a week. They are sometimes advertised to run three times a week, and are contracted for to run daily. They are sometimes advertised to run daily, and are contracted for to run twice a day. So, we find the route from New York to Philadelphia was advertised to run once a day; but the contract was made for it to run twice a day. The route from Philadelphia to Pittsburg, was advertised to run once a day; but the contract was

made for it to run twice a day. The route from Philadelphia to Pottsville was advertised to run once a day; but the contract was made for it to run twice a day. The route from Reading to Harrisburg was advertised to run once a day; but the contract was made to run twice a day. The contracts for these four routes alone provide for the annual transportation of the mail 338,360 miles more than what could be embraced in the estimate of the Messrs. Bradleys. They are not in the advertisement, for they are covered by improved bids; and they are not contained in the report of extra allowances, because they are provided for in the original contract. Thus it appears, that the report of the Messrs. Bradleys must be very erroneous; but the document furnished by the Department, showing the whole in detail, is so perfectly clear, that it presents no difficulty; and if there exists in the calculation a single error, it furnishes the data by which it may be detected.

In their report, the Messrs. Bradleys complain that they had not access to the archives of the Department. On this point, we are not aware of any just cause for complaint. The Postmaster General did refuse to suffer the books and documents of his Department to go out of the hands of those by whom they are ordinarily kept, except they were in charge of the committee, or some member of it; but he always showed the greatest readiness to furnish the committee, or any one of its members, so far as our knowledge extends, with any and every part of the archives of his office, whenever called for. He offered them a room in his office, which the committee accepted; and whenever any member of the committee was present, he always permitted the books and documents to be taken into that room, and there examined at pleasure, with or without the presence of any of the officers of the Department, by the Messrs. Bradleys, or by any other person whom the committee thought proper to employ.

In the whole course of the investigation, the inquiry whether any gift, or gratuity, or favor, had been received by any officer of the Department, from any contractor, (which might warrant the conclusion that it might have had any effect upon the public conduct of the officer,) was never lost sight of; and the result in our minds was, that nothing appeared which would justify a suspicion unfavorable to the Department or any of its officers.

It was suggested to the committee, that the Postmaster General had been furnished with money by contractors to whom extra allowances had been made. The committee subpœnaed and brought before them all the contractors who were supposed to have any knowledge of the transaction referred to: and from all the testimony it appeared that Colonel R. M. Johnson had been bound as surety or endorser for Major Barry—that when payment was demanded, it was not convenient for either of them to raise the money—that Colonel Johnson, without the agency or knowledge of Major Barry, procured the sum of fifteen hundred dollars on a temporary loan from a friend of his, who was a contractor—that this friend, in making up the sum required, was aided, to the amount of 500 dollars, by another contractor—that Major Barry, some time afterwards, paid the money to Colonel Johnson, who repaid it to the person from whom he had received it. The contractor swears that it was never a subject of conversation or reference between him and the Postmaster General; nor did he, in consideration of it, ever receive any favor or indulgence whatever. As the whole of this transaction appears to have been without the agency or knowledge of the Postmaster General, it cannot furnish ground for a suspicion of any thing wrong on his part.

The committee deemed it their duty to investigate every case where it was known that any member of the Department had had any dealings with any contractor, especially if the least intimation was given of a suspicion of any thing improper. A letter was received by the committee from a citizen of Pennsylvania, charging, upon hearsay evidence, that of an extra allowance of 10,000 dollars on the contract of Reeside and Slaymaker, in which Mr. Tomlinson was also interested, Messrs. Reeside, Slaymaker, and Tomlinson, received each 3,000 dollars, and that the other 1,000 had been received by Mr. Brown, the chief clerk of the Department. We, therefore, took testimony of all the witnesses to whom we had been referred in said letter; and the charge was not sustained by evidence, but was fully disproved. A loan of money was made by Messrs. Slaymaker and Reeside to Mr. Brown, which has been in part repaid, and part remains still unpaid; but it appears, on the clearest testimony, to be a loan of money on interest, and does not furnish grounds for suspicion of any thing improper. It also appeared that Mr. Brown had, sometime before this loan, made a loan on interest to Mr. Porter, a contractor, of several thousand dollars; and afterwards made an additional loan to Mr. Porter. If it should seem extraordinary, that he should borrow money on interest, while he had money loaned out at interest, the explanation is found in the circumstance that he acted as the agent of the late Doctor Jackson, and had received his money to the amount of several thousand dollars before his death; that he has continued to act as the agent for his widow and his orphan children, and has been in the habit of receiving their money to the present time, which he keeps at interest, as a distinct fund for their benefit; and that it was of this fund that he made the loan to Mr. Porter; but that the money which he borrowed, was to purchase property for his own individual benefit. These are all transactions of private character, having no relation to official conduct; but, as they were brought to view in the course of the examination of witnesses, we have thought it proper to state them, for the purpose of showing that every thing which might, by possibility, have a connexion with official relations, has been carefully scrutinized. There is nothing substantiated in the transaction in relation to Mr. Brown, which can justify a suspicion of impropriety.

James Reeside, is a contractor for carrying the mail on many different routes, and to a very great extent. In most of the contracts which bear his name, he is associated with others who are very largely interested with him. The committee have inquired into all his existing contracts. On all the routes in which he is interested, the mail is carried in stages or in steamboats; and their whole extent is 1,932 miles in length, which is more than all the post roads in the United States amounted to in 1791. On these routes the mail is transported annually 1,743,910 miles. For this service, the present compensation is 119,810 dollars per year, equal to six cents and eight-tenths of a cent per mile. On 90 miles of these roads, the mail is transported three times a day; on 326 miles twice a day; on 881 miles daily; and on 435 miles, three times a week. If, where it is transported more than once a day, he should be allowed no compensation for the service beyond once a day, the compensation would amount to nine cents and seven-tenths of a cent per mile. We have also compared the compensation which Mr. Reeside now receives, with what he received under his contracts made in 1827, under the late Postmaster General. It appears that he then transported the mail 391,194 miles per annum, at an annual compensation of $43,733 68, equal to eleven cents and two-tenths of a cent per mile. Under those contracts the mail was transported over 573 miles of post road, on 90 miles of which it was carried twice a day for six days in each week. If in that case there had been no compensation allowed for the service beyond once a day, the compensation would amount to thirteen cents per mile. We have pursued these investigations to ascertain whether there is any ground for suspicion,

that special favors have been extended to Mr. Reeside under the present administration of that Department; and it does not appear that the slighest ground for such a suspicion exists. He performs the services at a much lower rate than under the former administration, and it does not appear that he has ever received compensation, but for services rendered fully equivalent to the same.

An investigation was instituted before the committee, to ascertain whether he, Mr. Reeside, had not afforded to the Postmaster General such pecuniary aid, from which an inference might be drawn, that he might thereby become the object of special favor with the Department. Upon an examination into this subject, it appeared that the family of the Postmaster General was in Philadelphia, and had been there for some time, attending to his sick son, who was under the care of a physician of that place. That the Postmaster General, when on a visit to his family at Philadelphia, concluded to remove his family, including his son, from that place, at an earlier period than had been intended, and to enable him to discharge the demands against him, obtained from Mr. Reeside 1,000 dollars, upon an acceptance of short date, which was paid when it fell due. From this transaction, we are wholly unwilling to draw any unfavorable inference. In it we can discern nothing but the performance of a kind office, for which praise, rather than censure is due.

The committee examined carefully into all cases where complaints were made, or where any suspicion was intimated of favoritism having been extended by the Department to any contractor, or of any improper exercise of the discretion of the Postmaster General in granting allowances. Every such case became the subject of rigid scrutiny: and not a single instance of alleged abuse has been omitted by the committee.

The route between Baltimore, Maryland, and Chambersburg, Pennsylvania, seventy-seven miles, on which James Reeside is contractor, was among those which were examined by the committee. It appeared that the proposal of James Reeside to transport the mail on this route was accepted at 1,900 dollars a year; and that under his contract he received at the rate of 3,495 dollars a year from the commencement of the service under his contract, January 1, 1832, till the 31st December, 1833, when it was reduced to 1,900 dollars. On investigation, it was found that his proposal contained two propositions: the first to carry the mail daily, in four-horse post coaches, as advertised, which was to leave Baltimore daily at 4 A. M., and arrive at Chambersburg the same day by 9 P. M., 17 hours; leave Chambersburg every day at 2 A. M., and arrive at Baltimore the same day by 8 P. M., 18 hours; and to perform the service for 1,900 dollars per annum. The other proposition was to leave Baltimore daily, after the arrival of the steamboat from Philadelphia, and arrive at Chamsberburg same day, in time to connect with the mail from Philadelphia to Pittsburg, for the annual compensation of 3,495 dollars. The steamboat at that time left Philadelphia in the afternoon, and arrived at Baltimore at an early hour the next morning; and the mail from Philadelphia for Pittsburg passed through Chambersburg about six o'clock in the afternoon. The last proposition required a very considerable increase of expedition, and would gain an entire day between Baltimore and Pittsburg, of which this route is a part. The proposal of James Reeside was the only one offered for the route, and was accepted on the first proposition at 1,900 dollars. The acceptance was made in October, 1831, the contract to take effect from the 1st day of January following. On the 29th of December, 1831, the Postmaster General appears to have directed him to perform the service stipulated in his proposition for 3,495 dollars; and there is endorsed on the contract in the handwriting of Thomas B. Addison, the clerk employed in preparing and filing contracts, "Alteration made this 29th December, 1831." Some of the members of the committee were induced to suspect that this endorsement had been made at a recent date; but on the examination on oath of three clerks, Mr. Addison, by whom the endorsement was made; Mr. Dundas, who was then the corresponding clerk for this division; and Mr. Childs, who is the present corresponding clerk of this division; the fact was clearly established, that the endorsement is not of recent date, but was made at the time of the date which it bears.

The route from Hagerstown, Maryland, to McConnellsburg, Pennsylvania, on which Mr. Reeside is contractor, was also a subject of examination. The distance is stated to be 26 miles, and it was advertised to run three times a week, in four-horse post coaches. For this route there were several proposals, the lowest of which was 250 dollars, (a sum wholly inadequate to the service,) except that of Mr. Reeside, which was as follows: "We do agree to carry the mail on route No. 1,231, from Hagerstown to McConnellsburg, via Welch Run and Mercersburg, as advertised, for the yearly compensation of 40 dollars, or we will carry the same so as to connect the mail at each place, with the great Eastern and Western mails, daily in four-hourse post coaches, for the yearly compensation of ninety-nine dollars, ninety-nine dollars." This bid was accepted, and the contract appears to have been immediately filled at 40 dollars, and put into the hands of Mr. Reeside to be executed. It is alleged both by Mr. Reeside and the Postmaster General, that Mr. Reeside stated verbally to the Postmaster General, after the route had been assigned to him, and before the commencement of the service, that there was a mistake in his proposal; that the person who wrote out his proposal for him, must have mistaken his figures, and filled it with sums for which he never intended to perform the service. He alleged that the words "daily in four-horse post coaches," as used in his bid, were intended by him to apply to equally to both propositions; that he intended to propose nothing less than a daily mail; but to perform the service agreeably to the schedule advertised, for fourteen hundred dollars; or to give such increased expedition as would perfect the connexions, for nineteen hundred and ninety-nine dollars; that the inconsiderable sum named would show that there must have been a mistake, and that the writing of the words "ninety-nine dollars, ninety-nine dollars," with this repetition, made it obvious that there must have been an error. The Postmaster General informed him in answer to this statement, that as the route was intended to connect two daily routes, it would be necessary for him to run it daily; and and that the question for correcting the alleged error in writing the proposal, should be a subject for future consideration. There is on the files of the Department, a paper which appears to have been written after the service commenced, of which the following is a copy:

"Mr. Reeside says that the bid was put in by mistake, as will appear from the small sum. He intended to have made it 1,400 dollars, and to run daily, and so marked with his pencil; but the clerk who copied it for him, mistook his pencil-mark, supposing the 1 was belonging to his dollar sign, and the 0 at the right hand he overlooked, or considered it merely a point. The Postmaster General gave him a verbal order to run daily, and reserved for consideration the correction of the error. He has run, from the beginning of the year, daily. Shall he be allowed to correct the error, and receive 1,400 dollars? His distance is increased 10 miles. No other bid."

On this statement is written, in the handwriting of the Postmaster General, "*Granted.*" Such are the facts in this case. It is stated by the Postmaster General, that the increase of distance was occasioned by his going by way of Green Castle, five miles each way, which increased his daily travel ten miles. That the words "no other

bid," are erroneous; that the error must have arisen from the circumstance that three other proposals of Mr. Reeside were written on the same paper with this, to neither of which was there any other bid than his; and that it must have been under the impression that this was one of them, that this part of the note was made. The allowance of 1,400 dollars was made him for running it daily, with the increased distance of five miles each way, till the close of the last year, when it was reduced to a tri-weekly mail, and the compensation reduced to 700 dollars. This is 450 dollars a year more than the lowest bid, but with an increase of five miles distance each way, and to be performed in the same time that would have been allowed without the increased distance. The Postmaster General further states, that as soon as he discovered the fact (which was not until this investigation commenced) that there were other bids on the route, he informed the contractor that the amount of allowance would be a subject of reconsideration; and that it would be regulated according to the other proposals, and to take effect from the beginning of the contract.

The full amount of allowance is far from what appears extravagant when compared with what is paid for equal services on other routes; and if, when compared with the proposals of other responsible bidders on the same route, the allowance shall appear to be greater than what the contractor is fairly entitled to, the Postmaster General has the power, as he has declared his intention, to reduce it to the proper amount.

The contract made by the Department with Dr. John T. Temple, for transporting the mail between Chicago, Illinois, and Green Bay, in the Territory of Michigan, has also been a subject of investigation. It appears that Doctor Temple was formerly a clerk in the General Post Office, and that he resigned his situation as such about the first of March, 1833, to take effect from the close of that month. The route from Chicago to Green Bay was established by the law of 1832; but in advertising the routes established by that law, this route was omitted, and one which had not been provided for by law, from Detroit, by Mackinac, to Green Bay, was advertised. This error appears to have arisen from the circumstance that the person who prepared the advertisements had not the means of referring to the law as it finally passed, it having been necessary to prepare the advertisements before the law was published.

Two proposals, however, were received by the Department for transporting the mail on the route from Chicago to Green Bay. One by Alexander Irwin and John P. Arndt, to carry the mail once in two weeks for 3,000 dollars a year, from the 1st January, 1833, for the period of three years. Their proposal is dated "Green Bay, September 5, 1832." The other was by Asahel Savery, of White Pigeon, who was then present at the Department, dated 10th November, 1832, proposing to carry the mail once in two weeks for 3,000 dollars a year, from the 1st April, 1833, to the 31st December, 1835; or, if the Postmaster General should require it to be carried once a week, he proposed to perform the service for the additional sum of 500 dollars a year. Colonel Savery was already the contractor for carrying the mail from Detroit to Chicago, and his proposal was accepted to transport the mail between Chicago and Green Bay, once a week, from the 1st April, 1833, for the yearly compensation of 3,500 dollars. On the 19th of January, 1833, Colonel Savery addressed a letter to the Postmaster General, stating, that as the route had not been advertised, he had not travelled over it preparatory to making his bid, but had supposed the distance to be but two hundred miles, over a prairie country, unobstructed by difficult streams of water; but he had since learned that the distance was two hundred and fifty miles, principally through uninhabited woodlands, interrupted by several water-courses, which would require him to keep boats to enable him to perform the service. He, therefore, earnestly requested the Postmaster General to add a thousand or fifteen hundred dollars to his annual allowance, as a matter of equity. He proposed to submit the subject to Governor Cass, who, he supposed, had travelled over the route. The matter was accordingly referred to Governor Cass; but he returned it to the Department without giving an opinion, having never travelled over the route. The contract was made on the 22d of February with Colonel Savery for 4,500 dollars a year, to commence the first of April following. On the 28th of February, one week after the contract was made, it was assigned by Savery to John T. Temple, and the assignment approved by the Postmaster General.

The other proposal was for 3,000 dollars, once in two weeks. Had it been accepted, the Postmaster General could not have required them to have increased to once a week for less than 6,000 dollars. The contract was made with Savery, once a week, for 4,500 dollars. Dr. Temple had determined to resign his situation as a clerk in the General Post Office, and remove to Chicago, and did actually resign and leave the Department for Chicago, before the contract commenced. It appears that he had desired to obtain this contract before he left the Department, and had received a promise of Savery to transfer it to him in case he should obtain it; but it does not appear that this was known to the Postmaster General, or to any other person in the Department having any agency in making the contract with Savery; nor does it appear that the hope or expectation of Dr. Temple to obtain this contract, had any influence whatever in the giving of it to Col. Savery, or in regulating the compensation to be allowed for the service. Notwithstanding this, it would be highly proper that there should be a legal prohibition against any person engaged in the Department becoming interested in mail contracts, or acting as agents for contractors in any manner whatever.

The contract for transporting the mail on the route between Bellefonte and Meadville, in Pennsylvania, has also been examined. This was formerly a two-horse s age line, under contract to Hays and Bennett, to be performed three times a week, through in two and a half days, at 2,700 dollars a year. Their contract expired on the 31st December, 1831. In June, 1831, the route was advertised for proposals to renew it in the same way; that is, in two-horse stages, three times a week; the trip to be performed each way in two days and a half. John and Benjamin Bennett proposed to perform the service through in two days, in four-horse post coaches, for 3,500 dollars a year. There were two other proposals received for this, both to run as advertised, viz. E. Platt & Co. for 1,980 dollars a year, and Moore, Libo, & Co. for 2,450 dollars a year. The bid of Platt & Co. was accepted. This route constitutes a part of the most direct line from Philadelphia and Harrisburg to Erie, the northern part of Ohio, and Michigan. The lines with which it connects at both ends are four-horse coach lines. There were many applications to the Postmaster General from persons of the highest intelligence and respectability, calling for the improvement of this into a four-horse post-coach line. The Postmaster General at length determined so to improve it. Fifty per cent. on a two-horse stage line is estimated by the Department as the *pro rata* increase for improvement to a four-horse coach line. The proposal, therefore, of Mr. Bennett, was lower than any other, except that of Platt & Co. But Platt & Co. voluntarily withdrew their proposal, as appears from the documents on file in the General Post Office; and there appears to have been good reason why the Postmaster General should have permitted them to do so. The proposal of the Bennetts was then accepted, and a con ract made with them to perform the service three times a week in four-horse

post coaches. They also stipulated to run through each way in two days, instead of two days and a half. Their contract is dated October 15th, 1831, but it does not appear to have been signed by them till the 29th March, 1832. On the contract, the following note appears: "On account of unusual freshets and destruction of bridges, that is, Sugar-creek bridge, Franklin bridge, with material other changes on the road since the 15th October, 1831, to the 29th March, 1832, we agree to run the mail in two days and a half each way from Bellefonte to Meadville, and back; and it is understood that as soon as the bridges are rebuilt, we shall adopt the foregoing schedule mentioned on the within contract. No delay will be occasioned at Meadville, in consequence of the last-mentioned schedule."

"The above statement is just and true.

"DANIEL ANDREWS, *P. M.*"

In consequence of this statement, certified by the postmaster at Meadville, they were permitted to take the additional time, two and a half instead of two days, while the bridges were gone, and the roads out of repair. It is stated at the Department, that the contractors claimed additional compensation, in consequence of the increased distance and expense to which they were subjected by the loss of the bridges and injury of the roads; but this was denied them. The additional time, however, seems to have been very properly allowed. John Bennett has since deceased, and Benjamin Bennett is fulfilling the contract.

Avery, Tompkins, and Saltmarsh, are contractors for transporting the mail on several routes; among which are the routes from Petersburg, Virginia, by Warrenton, North Carolina, and Raleigh, to Fayetteville, two hundred and three miles, constituting a part of the main daily line between the Northern and Southern States, to New Orleans. These routes are involved in their contract with other routes, which do not belong to the main Southern mail line, at a round sum for the whole, without defining the proportion which belongs to each separate route.

One of their contracts is for carrying four times a week, in four-horse post coaches, between Petersburg and Warrenton, eighty-five miles; for running four times a week between Warrenton and Raleigh, fifty-seven miles, in four-horse post coaches; for running daily between Raleigh and Fayetteville, sixty-one miles, in four-horse post coaches; for running three times a week between Halifax and Raleigh, eighty-six miles, in four-horse post coaches; and for the whole of these five routes, they were to receive 24,000 dollars a year. Another is for running three times a week between Nashville and Tarborough, North Carolina, twenty-eight miles, in two-horse stages, at 450 dollars a year; and for running once a week on horseback, between Enfield and Tarborough, twenty-four miles, at seventy dollars a year. These contracts all bear date October 20, 1830; to commence January 1, 1831, and to continue four years.

From the first of the above routes they were required to run a cross-mail, diverging from the main route at Diamond Grove, nine miles, to Gholsonville, for which an additional allowance was made of 150 dollars a year.

The routes from Petersburg to Warrenton, and from Warrenton to Raleigh, one hundred and forty-two miles, were afterwards directed to be run daily, instead of four times a week, and to be so expedited as to gain a half of an hour each way. The route from Nashville to Tarborough, twenty-eight miles, was directed to be run in four-horse post coaches, instead of two-horse stages. The route from Enfield to Tarborough, twenty-four miles, was directed to be performed three times a week in four-horse post coaches, instead of once a week on horseback. For these several improvements, the contractors were allowed an additional compensation at the rate of 9,000 dollars a year. Whether this allowance was greater than what law and equity would warrant, is a proper subject of inquiry; a pro rata allowance for three additional trips per week between Petersburg and Raleigh, via Warrenton, provided no more is allowed for carrying the great mail on the main line than for collateral mail lines, would amount to about 7,000 dollars, without increase of expedition. This would leave 2,000 dollars applicable to the improvement of the route from Nashville to Tarborough, twenty-eight miles, from a two-horse stage to a four-horse post-coach line, and for the establishment of a four-horse post-coach line three times a week from Enfield to Tarborough, twenty-four miles, instead of a horse mail once a week, and for the increase of expedition. There is no rule by which a pro rata can be established between a horse-route and a coach-route, nor for an increase of expedition. The contractors furnished satisfactory evidence to the Department that the improvement increased their expense equal to the allowance which was made, and there is no cause to doubt it.

From the 1st of April, 1832, it was deemed advisable by the Postmaster General to give such further expedition to the great Southern mail as to bring it into Washington at nine o'clock at night, instead of five the next morning, so as to connect it with the morning instead of the afternoon steamboat at Baltimore for Philadelphia: in doing this, the contractors were required so to expedite as to give one hour between Fayetteville and Petersburg. In the second section of their contract it was stipulated that the Postmaster General may alter the times of arrival and departure fixed by said schedule, and alter the route; he making an adequate compensation for any extra expense which may be occasioned thereby. In conformity with this stipulation, the increased expedition was ordered. The contractors furnished evidence to show that it required two additional teams, or eight horses and two drivers, and that the expense amounted to 2,000 dollars. This sum was therefore allowed them by the Postmaster General, and it appears to have been no more than justice and the terms of their contract required.

The road between Petersburg and Raleigh, 142 miles, is stated to be unusually bad during the winter season; and the great weight to which the mails had grown, rendered it impracticable for it to be carried through in proper time in coaches. To secure its regular and rapid transportation, the contractors, from December 1832, established a line of covered wagons, in which the great mail was carried, to run daily during the winter, so as entirely to exclude passengers; and in addition to this, they ran a line of coaches three times a week, by which the intermediate and smaller offices might be supplied with the way mail. This was running ten times instead of seven times a week. For this service the Postmaster General allowed them 2,500 dollars. The service appears to have been important to keep up without interruption the regular communication between the North and South during the winter, when these roads are said to be extremely difficult to pass. Evidence satisfactory to the Postmaster General is filed in the Department to show that the allowance made was but a reasonable equivalent for the expense to which the service subjected the contractors.

A contract was made with James F. Robinson, dated 15th October, 1831, to transport the mail, from January 1, 1832, to December 31, 1835, between Cincinnati, Ohio, and Georgetown, Kentucky, 72 miles, daily, in four-horse post coaches, for 1,000 dollars a year. After this contract was made, and before the service under it commenced, such increased expedition was given to the great Western mail as to carry it from Washington city, and from Baltimore to Cincinnati, in two days less time than under the former contracts, and to arrive at Cincinnati at 6 o'clock in the evening. To give to Kentucky the full benefit of this expedition, it was deemed necessary to direct the

contractor on this route to leave Cincinnati every night after the arrival and distribution of the mail from the East, at 7 o'clock, and arrive at Georgetown the next morning by 7 o'clock, so as to connect with the mail to Louisville. He was therefore directed, on the 29th December, 1831, to run through in 12 hours, instead of 14 hours, his contract time. The schedule in the original contract was to leave Cincinnati at 4 o'clock in the morning, and arrive at Georgetown by 6 o'clock in the evening; leave Georgetown at 5 in the morning, and arrive at Cincinnati by 7 in the evening, giving 14 hours each way, and the day time for running. The alteration gave but 12 hours each way, and the night instead of the day for running. The contractor alleged that this increased expedition added to the difficulty of running in the night instead of the day, subjected him to an additional expense of $4,800 a year, and claimed that sum as an extra compensation for the service. The second article of the contract stipulates that the Postmaster General may alter the times of arrival and departure, and alter the contract, be making an adequate compensation for any extra expense that may be occasioned thereby. He did not reject the claim, but refused to make any allowance until satisfactory evidence should be produced of the amount of such extra expense. He therefore named two experienced stage proprietors in that State, John Hutchins and John G. Chiles, and proposed to refer to them the decision of what was the extra expense, the Postmaster General still reserving to himself the right of determining what was equitable, after receiving their certificate. These gentlemen certified that the increased expedition required four additional teams of four horses each, and two coaches—that the annual expense of the four teams was fairly estimated at 800 dollars each, making 3,200 dollars; and the two additional coaches at 300 dollars, making an additional expense of 3,500 dollars per annum. The Postmaster General was still unwilling to allow so large a sum; but three other citizens, Miles W. Dickey, Robert W. Ewing, and John Dudley, certified that $4,000 a year would be but a moderate and reasonable compensation for the service. The Postmaster General, upon these testimonials, made him an additional allowance of 3,000 dollars a year. When it is considered that in a contract like this, the contractor depends mainly upon his passengers to defray the expense of his performance, especially when the times of running are such as will be most accommodating to passengers, as was the case originally in this contract, and when the Postmaster General shall afterwards give an order, the fulfilment of which shall greatly increase the expense, without any increase of profit from passengers, but rather tending to diminish their number, it seems reasonable that such increased expense should be borne by the Department. This principle is also recognised in the contract which provides that the Postmaster General shall make adequate compensation for such extra expense. The allowance then, is but the fulfilment of a stipulation in the original contract; and in this case, it appears to be just and equitable.

Josiah Horton swears, that in 1832, he, with William Lewis and Thomas Lindsay, ran a line of stages on the road from Federick to Hagerstown, in Maryland, at the time when the articles of agreement referred to in Mr. Brown's statement were entered into between the Pennsylvania and National Road Companies; that that agreement contained an article tending to injure him by driving him off the road; and that he learned from Mr. Carter and Mr. Tomlinson, that Mr. Brown received fifty dollars of Mr. Carter for the part he had taken in bringing about that agreement. For the part which Mr. Brown took, we refer to his statement on oath, by which it appears that he was not the author of the articles of agreement, nor were they dictated by him—that he was only the means of bringing the parties together, and urging the necessity of an adjustment of their differences, and that he wrote the articles for them after the parties had agreed upon the terms; and that what he received from one of the companies was on account of the expense which he had incurred in performing a journey to Pittsburg and Wheeling, for the purpose of effecting an agreement between his friends. Mr. Horton was not a mail contractor, nor did he carry a mail in the stages which he was running. It was rather an opposition line to Mr. Stockton, the contractor. If an agreement between the companies who were contractors, operated to the detriment of an opposition line upon either of their roads, we do not conceive it to be a proper subject of interference, either by the Department or by any other branch of the Government. Every citizen has a lawful right to run a line of stages upon any highway, at his pleasure; and the proprietors of other lines, in making their arrangements for passengers, are under no obligation in law to guard his interest. But as this is a matter which has no reference to the transportation of the mail, but to passengers only, and that in stages which do not carry the mail, nor bear any relation to the Department, it is not a proper subject of inquiry or interference on our part. There was nothing official in the transaction, nor any thing over which either the Department or Congress could exercise any control.

Mr. Horton also swears that he has been endeavoring for four years past to get contracts from the Department, but he has not been able to succeed; that he has been the lowest bidder, he believes, a dozen times, yet the contracts are always given to others. He instances two cases—one is, that he proposed to carry the mail between Washington and Winchester, via Leesburg, for 1,300 dollars, but the contract was given to Mr. Stockton at 2,300 dollars.

We have examined this case, and find the facts to be as follows: The route from Washington city, by Leesburg, to Winchester, 70 miles, and from Fairfax C. H. to Winchester, 56 miles, both three times a week, in four-horse post coaches, were proposed to be taken by Messrs. Stockton and Stokes, in 1830, at 4,000 dollars for the two routes, with the improvement on the former to run six times a week, for half of each year, between Washington and Leesburg, and to run three times a week between Alexandria and Leesburg, and to extend an afternoon mail six times a week from Washington to Baltimore, so as to deliver the Leesburg mail in Baltimore the same day on which it leaves Leesburg, instead of suffering it to be detained in Washington until the next day.

Mr. Horton's bid on the route from Washington by Leesburg to Winchester, was for 1,375 dollars a year, and the lowest bid on the route from Fairfax C. H. to Winchester, was 1,800 dollars. If Mr. Horton's bid had been accepted on the one route, and the lowest bid on the other route, then the two routes would have cost the Department 3,175 dollars a year. Mr. Stockton was already the contractor on the route; and his bid at 4,000 dollars for the two routes, with the improvements, was accepted. The difference was 825 dollars a year; and for that sum the Department received, by this acceptance, the additional service of three mails a week, in four-horse post coaches, between Washington and Leesburg, and six afternoon mails a week between Washington and Baltimore, by which the mails from Winchester and Leesburg and other places in the northern part of Virginia, were delivered in Baltimore the evening of their arrival in Washington, instead of being detained till the next day, and the facilities of an afternoon mail to Baltimore given to the citizens of Washington, Georgetown, and Alexandria. The Postmaster General considered this the best bid, and therefore accepted it.

The other case which he instances is that of the route

between Washington city and Lynchburg, Virginia, 200 miles. He alleges that his bid was lower than that of Mr. Smith by 1,500 dollars, as he believes; yet Mr. Smith obtained the contract. The facts appear to be as follows: William Smith, of Virginia, had, about a year before the advertising of this route, in 1830, the period to which Mr. Horton's affidavit refers, established a line of four-horse post coaches, to run three times a week on the whole road between Washington and Lynchburg. When, in 1830, the advertisement was issued for proposals for the whole of the Southern section, Mr. Smith proposed to renew his contract on this route at 6,000 dollars a year, for four years, from the first of January, 1831. Mr. Horton proposed to take the contract at 5,450 dollars a year, as appears by the proposal-book, making a difference of 550 dollars a year, and not 1,500 dollars, as Mr. Horton supposed. Mr. Smith also proposed, without any further compensation, to furnish the mail with guards, if, at any time, it should become necessary on this route, as it had on several other routes. He also bound himself to make such provision for passengers on the route from Winchester, connecting with this at Fairfax C. H., as would supersede the necessity of extending that route from Fairfax C. H. to Alexandria, 14 miles. The Postmaster General considered Mr. Smith's bid the most eligible of the two, if he had only regarded the improvements. But there were other considerations before him. It is usual to give a preference to old contractors, when they are known to be faithful. Mr. Smith was the former contractor on this route, and, as such, was very favorably known to the Department. Mr. Horton does not appear to have been favorably known to the Department. The present Postmaster General had been but a little more than a year in office, and for a knowledge of the character of contractors, he, of course, referred to the testimonials left in the Department by his predecessor. From them he does not appear to have found any thing favorable respecting Mr. Horton. It appears that in the fall of 1828, when the last lettings were made under Mr. McLean, Josiah Horton and Co. proposed to carry the mail daily, in stages, between Boston and Providence, 42 miles, for 690 dollars a year. Under the record of this proposal is written, in the handwriting of the late Postmaster General, the following note: "The persons associated with Mr. Horton not being made known to the Department, and as there is a considerable amount of property on this route, which, by the rules of the Department, must be purchased by the under-bidder, it is believed that he does not possess the means to purchase the same. The bid of the contractors is, therefore, accepted as above." Against the names of Gay and Homer, above, is also written, in the handwriting of Mr. McLean, "accepted at 2,000 dollars." Thus, it appears, he was not accredited by the late Postmaster General for a daily mail, 42 miles, but another proposal was accepted at nearly three times the amount of Mr. Horton's. We should, under all these circumstances, conclude that the acceptance of Mr. Smith's proposal, in preference to that of Mr. Horton, for a route of 200 miles in length, was judicious and proper.

The contracts with General George House, of Ohio, have also been the subjects of investigation. He was under contract with the late Postmaster General, for transporting the mail, once a week, between Gallipolis, Ohio, and Chillicothe, 62 miles, in two-horse stages, from January 1, 1828, to December 31, 1831, at 600 dollars a year. From the 1st November, 1829, he was allowed, by the present Postmaster General, an additional sum of 600 dollars a year, for running twice a week in four-horse post coaches. John Black was contractor for carrying the mail between Gallipolis and Coalsmouth, Virginia, twice a week, on horseback, from January 1, 1831, for 394 dollars a year. In the spring of 1831, George House appears to have contemplated the establishment of a steamboat line from Gallipolis across the Ohio river, and up the Kanawha to Coalsmouth, Virginia, 50 miles, where it would connect with the stage route from Fredericksburg, by Charlottsville, Staunton, and Guyandotte, to Catlettsburg, in Kentucky; and for the purpose of having the mail carried by steamboats, House was directed to extend his mail route from Gallipolis, from April 1831, which superseded the contract of Black. He did not succeed with his steamboat, but carried the mail on horseback, for which he received no more compensation than Black was entitled to under his contract. The contract of House expired on the 31st of December, 1831, and in the summer of 1831, when the routes in that quarter were advertised for re-letting, that of House from Chillicothe was advertised to run three times a week, in four-horse post coaches. The proposal of General House was, to extend to Kenawha Court-house, 62 miles, which would double the distance, and to carry the mail in steamboats, between Gallipolis and Kanawha Court-house, for 3,600 dollars a year. His proposal was rejected, and that of A. L. Ross and Co. accepted, at 1,100 dollars a year, to run from Chillicothe to Gallipolis, 62 miles, and to run through in 30 hours. Though General House has not succeeded with his steamboat, he appears to have had one in a state of forwardness, preparing for the route up the Kanawha; and the Department appears to have been anxious to have the steamboat line established, as a connecting link between the Guyandotte stage route in Virginia, and the stage lines from Gallipolis, by Chillicothe, to Columbus, and to Cincinnati, in Ohio. In conformity with the wishes of the Department, A. L. Ross, therefore, voluntarily relinquished the route between Gallipolis and Chillicothe, that it might be given to House, and extended, by steamboat, to Coalsmouth or Kanawha Court-house.

A contract was then made with George House, to carry the mail three times a week, in four-horse post coaches, 62 miles, through in one day; also, to extend, three times a week, on horse-back, from Gallipolis to Coalsmouth, 50 miles; and if it should be found practicable to run steamboats, then to extend to Kanawha Court-house, 62 miles, and to carry the mail in steamboats between Gallipolis and Kanawha Court-house, and to perform the whole service for 2,600 dollars a year. It appears from the reports of postmasters, that General House has often failed to deliver the mail, on his route, according to the directions of the Department, and the penalties have not been generally enforced. These failures were frequently occasioned by the high and impassible state of the waters on this route, and in some instances, the penalties have been imposed; still we cannot think from the evidence now in possession of the Department, that sufficient rigor has been exercised.

William Smith is contractor for carrying the mail in coaches on many routes, among which are the most of those constituting the line from Washington city, by Fairfax Court-house, Warrenton, Virginia, Culpeper Court-house, Orange Court-house, Charlottesville, Lynchburg, Danville, Salem, North Carolina, Yorkville, South Carolina, and Washington, Georgia, to Milledgeville. The route from Washington to Lynchburg, 200 miles, he contracted to run three times a week, in four-horse post coaches, from January 1, 1831, to December 31, 1834, at $6,000 per annum. In April, 1831, such alteration was made in the times of arrival and departure, on this route, and on the route between Lynchburg and Danville, and such increased expedition given, as to require considerable additional expense. The object was to perfect the connexion south of Danville, with the route from Salem, North Carolina, to South Carolina and Georgia, so as to save two days of time, which would otherwise be lost; and it is stated that it would require two additional teams

of horses. For this alteration, he was allowed 800 dollars a year extra pay. In the August following, he was directed to make such further alteration on that part of the route between Warrenton and Washington city, as would bring the mail, once in each week, into the latter place, one day earlier than it would otherwise do. This alteration evidently subjected him to increased expense, and it is stated that it required an additional team; and he was allowed for it 300 dollars a year extra compensation. He was afterwards allowed 1,200 dollars for improving it from a tri-weekly to a daily route between Washington city and Warrenton, 50 miles. In April, 1832, he was allowed the further sum of 1,600 dollars per annum, for extending the daily route to Orange Courthouse; and from the 1st of May, 1832, he was allowed the further sum of 3,000 dollars a year, for extending the daily line of coaches the whole distance from Washington city to Lynchburg.

The extension of the line daily, from Washington to Lynchburg, appears to have been made in conformity with the general and earnest calls of the citizens of the section of country through which this mail runs. Letters and petitions were presented with more than one thousand signatures, calling for the improvement, and sustained by the members of Congress representing the country through which it passes. This makes, together with the former allowance, 6,900 dollars a year, extra allowance for improving the route from three times to seven times a week. His original contract was 6,000 dollars a year for three weekly trips, or 2,000 dollars a year for each weekly trip. Four additional weekly trips were added, which, at the same rate, would amount to 8,000 dollars a year. The allowance was less than that sum. It was therefore within the limitation fixed by law. Its expediency is the only point on wh ch a question can be raised. It has been suggested that its proximity to another route, that from Fredericksburg, Virginia, to Milton, North Carolina, is such as to render it inexpedient or improper to incur the expense of a daily coach mail on this route. On this point, we are of opinion that the Postmaster General, and the citizens interested, including their representatives in Congress, are the most competent judges. It runs through an important section of country, connecting the seats of justice of not less than seven counties, including the towns of Charlottesville and Lynchburg, with each other, and with the seat of the General Government. There is another stage route running between this and the principal mail route to the Southern cities, but it has no connexion with this route, that commencing at Fredericksburg and terminating at Milton, North Carolina, and this commencing at Washington and terminating at Lynchburg. There are other routes extending from the southern termination of these, which continue till they terminate in one point at Salem, North Carolina, and the principal mail route between Washington and Fredericksburg connects these northern points; but they commence fifty-seven miles distant from each other, and their terminating points, Milton and Lynchburg, are still more distant. We are of opinion, therefore, that there is nothing obviously inexpedient in the improvements which have been made in this route; and from the uncommon solicitude of the citizens and their representatives, upon the subject, it would seem that they were an object of more than ordinary desire. The Postmaster General, who had the best means of determining the question, decided in favor of its expediency; and we find no evidence which would justify us in taking exception to his decision. There has been a reduction made on the line from Washington to Lynchburg; the mail is now only transported six times a week to Warrenton, and three times a week to Lynchburg; and a corresponding reduction of compensation has also been made: this diminution of service and compensation has been produced by the want of means in the Department, and we are not prepared to say that the former service and compensation should not be restored, whenever the finances of the Department will warrant it. It should be remarked in this case, that no imputation of partiality towards the contractors should be indulged in, because the compensation for the extra services falls short of the legal standard, or what might have been allowed by law, and the reduction of service, to so great an amount was made at such a season of the year as greatly to sacrifice the value of much of the stock thrown out of employment by the reduction.

The mail routes between Staunton, Virginia, and Catlettsburg, Kentucky, 252 miles, were advertised to run three times a week in four-horse post coaches. Porter, Belden, and Co. proposed to perform that service from January 1, 1831, to December 31, 1834, three times a week, for 7,566 dollars a year, or six times a week for 15,120 dollars a year, or daily for 15,500 dollars a year. The contract was made for three times a week, at 7,566 dollars a year, and signed by Edwin Porter and Co., and and Jourdon Woolfolk, dated October 20, 1830, to commence January 1, 1831, and to continue four years. About a year after this contract commenced they were allowed the additional sum of 156 dollars a year for sending a mail on horseback three times a week to the post office at Teaze's valley. From 1st April, 1831, three months after this contract commenced, it was improved to six times a week. Their proposals would have entitled them to 15,120 dollars for the whole service six times a week, which would have been an additional allowance to the original contract of 7,554 dollars a year; but the Postmaster General refused them this amount, and allowed them only 5,000 dollars a year, which was 2,554 dollars less than their proposal. In August, 1832, that part of this route which lies between Guyandotte and Catlettsburg, 12 miles, was discontinued, and a deduction of 346 dollars a year made from their contract. From the 1st November last, the whole line was reduced to a tri-weekly route, and the allowance of 5,000 dollars a year withdrawn which had been made for its improvement; also the allowance of 156 dollars a year for sending a mail to Teaze's valley, was at the same time withdrawn, which reduced the annual compensation for the stage line to 7,220 dollars a year, being 346 dollars less than the original contract. In this we discover nothing incompatible with law and equity.

The law of March 2, 1823, (section 3,) which establishes as post roads all waters on which steamboats regularly pass, from port to port, makes the Ohio river a post road; and the 4th and 5th sections of the law of March 3, 1825, has been construed by the Postmaster General as authorizing him to make contracts for the conveyance of mails on extended routes, and on steamboat routes, without advertising, as is required in ordinary cases. Instead of being governed by advertisement, as in cases where there is no other restriction, he is restricted in contracts, under the 4th section, by the proceeds of the post offices, on the extended part of the route, and in contracts under the 5th section, he is restricted by the number of letters and papers conveyed. Under the section which authorizes him to make contracts for carrying the mail by steamboats, it is the practice, when the number of letters and papers conveyed by such steamboat will not probably be so great as to amount to a very considerable sum, to require them to be counted at the post office where they are delivered, and payment made by the postmaster, according to law; but in cases where the mail is large, and will probably amount to more by counting than a fair contract price, and especially when it contains numerous packets mailed for other offices than those to which they are delivered by the steamboat, the counting of them would be impracticable; and it is the

practice of the Postmaster General to enter into contract upon such terms as in his judgment are most eligible for its transportation in steamboats. In pursuance of this practice, the Postmaster General extended the original route which was then in operation from Staunton to Guyandotte, so as to run by steamboats from Guyandotte, Virginia, down the Ohio river, by Cincinnati, Ohio, to Louisville, Kentucky, to run six times a week each way, for which he allowed the contractor 13,000 dollars a year. It is stated by the Postmaster General, that, on experiment, it was found that the part of the route between Cincinnati and Louisville was much more important than the part between Guayandotte and Cincinnati; and as the great Northern and Eastern mail, which arrived at Cincinnati for Louisville, and all places south and west of that place, was daily instead of six times a week, it was desirable to have that part of the steamboat route daily, instead of six times a week; but the contractor alleged that a daily mail would require an additional steamboat, which would greatly increase the expense. It was therefore stipulated that he should run but four trips a week each way, between Guyandotte and Cincinnati, and seven trips a week each way, between Cincinnati and Louisville, without any change in his compensation. From the 1st November last, the part of the route between Guyandotte and Cincinnati was reduced to two trips each way, a week, and a deduction made from his compensation of 5,000 dollars per annum. The pesent steamboat contract, therefore, is to run twice a week, each way, between Guyandotte and Cincinnati, and daily between Cincinnati and Louisville, and the annual compensation is 8,000 dollars.

The mail route between Mobile, Alabama, and New Orleans, Louisiana, has been a subject of investigation. It appears that the contract for this route had been annulled on account of the failure of the contractors; and the Postmaster General advertised it on the 15 h of April, 1829, for proposals to be received till the 12th July, 1829, to run three times a week from Mobile, via Pascagoula, in stages and steamboats, the terms indefinite. It was accepted to James Reeside and Co. at 25,000 dollars a year; and the contract made with them, at that rate, to transport the mail in stages and steamboats, or in steamboats, as might be found most eligible, for four years, from the 16th of November, 1829. The contract is dated July 24, 1829, signed by James Reeside, Richard C. Stockton, William B. Stokes, John H. Avery, Edwin Porter, and the Potomac Steamboat Company, by Frederick May.

The Postmaster General determined, in the fall of 1831, to improve the mail route between the Atlantic cities and New Orleans to a daily line; but as the enterprise of this company had in many respects proved disastrous, he determined to confine the contract on the route for this part of the line to the responsibility of an individual who might select his associates, but stand personally pledged for the performance of the service. He therefore superseded this contract by a new one, with Edwin Porter, to run daily, instead of three times a week, and to receive for his annual compensation 40,000 dollars. This contract bears date October 15, 1831, to commence on the 1st of January, 1832, and to continue four years. It is signed by Edwin Porter, as principal, and by Sidney Porter and William Allen, as sureties. Under this contract the mail appears to be carried at this time.

It has been suggested that this contract was liable to exception. It should be remembered that the Postmaster General is expressly authorized, by the act of 1825, to cause the mail to be transported by water from the city of Mobile to the city of New Orleans. It was put into operation before the present Postmaster General came into office—was by him advertised, and regularly let to contract, in July, 1829—the transportation between the above-named places to be tri-weekly at the price of 25,000 dollars per annum. The additional 15,000 dollars for the additional four trips a week, so as to make the service daily, at 40,000 dollars per annum, was clearly less than the *pro rata* allowance which the Postmaster General is authorized by the law to grant.

It is alleged, however, that this route costs the large sum of 40,000 dollars, while the nett amount received for postages in the year ending on the 31st March, 1833, in the whole State of Louisiana, was only $46,718 43, and at this time cannot greatly exceed that sum—and in the State of Alabama, the nett amount of postages in the same period was only $37,682 58. Were these two States alone interested in this route, it would be readily admitted that the expense produced by it would be unreasonable, but when it is recollected that New Orleans is the point to which the whole surplus agricultural products of the nine Western States and the western parts of Pennsylvania and Virginia are transported to market, and the purchasers in a great measure are the merchants and traders of the Eastern cities, it will be seen that the whole Western States, and a great portion of the Eastern trading community, have an interest in securing a certain, frequent, and speedy transmission of intelligence by this route. A principal object of *expedition* in mail transportation is, that intelligence through that channel may become general among those who have articles to sell, before purchasers, or their agents, acting by means of private information, procured through expresses, and otherwise, can obtain that advantage which those acting with a knowledge of the state of the market in other parts of the world always have over those who do not possess similar information. In this view of the subject, the whole Western country is deeply interested in keeping up this route, cost what it may—without it they might be exposed to the danger of sacrificing the products of their labor without obtaining a fair equivalent, and citizens of the Eastern portion of the United States are interested in procuring certain and early intelligence of the kind and quantity of Western productions that are or probably may be in market at New Orleans. It is true that numerous failures have occurred on this route, owing chiefly to the incapacity of Mr. Porter's agent, for which fines to the amount of about 6,000 dollars have been imposed; but since the contractor has fixed his residence at Mobile and New Orleans alternately, and given to the route his immediate personal attention, the transportation of the mail has become regular, and well connected with the great mail line from Mobile to the Atlantic cities. By this arrangement the time of transporting the mails from New Orleans to Washington, and the cities east of it, is several days less than it was previous to its adoption.

At first view it may seem exceptionable that the Postmaster General has granted such important mail facilities in the Southern and Western States, and has not to a greater extent discontinued unproductive routes in those sections, inasmuch as the postages received in those States in no instance equals the expense of the transportation through them. It is true, that by the act of 1825, he is directed that whenever, within the term of three successive years, a route shall fail to yield one-fourth of the expense incident to its establishment, to discontinue the same, unless in cases where it may be necessary as a connexion or continuance of a route or routes, and provided he shall not deprive a seat of justice in any county of one mail going to and from it. We are not aware that this injunction of the law has been disregarded, nor have we had time minutely to investigate this subject, our attention having been directed to objects deemed more important. One general fact, however, is apparent: that the Southern and Western States do not, through the offices in them, contribute to the Department an amount equal to the expense of transportation.

This arises from several causes. A commercial and manufacturing community have more correspondence, and of course contribute a greater proportion of the revenues of the Department, than an agricultural people. A dense will contribute more than a sparse population. Besides, the expense of transportation through an old and thickly-settled country, where the roads are well improved, and where many passengers travel in mail stages, will be much cheaper than in a quarter of the country thinly inhabited, and where the roads are not in so high a state of improvement. But it should be observed that the postages returned to the General Post Office from the offices in the Southern and Western States, do not constitute the whole amount that mail facilities in those sections contribute to its revenue. Much of the postages received in the large Eastern cities arise from correspondence received from the citizens of the Southern and Western States. But suppose the fact in this particular to be that the Southern and Western States have some advantage, it may be safely affirmed that this is the only Department of the Government in which they are on a footing of equality with other sections of the United States in the benefits accruing from the disbursement of public moneys. To say nothing of the unequal operations of the revenue laws upon the different parts of the country, it is appparent that the public moneys are principally expended on the Eastern seaboard; as instances, light-houses, breakwaters, harbors, fortifications, and many other objects of expenditure that might be named, having no corresponding disbursements in the Western States. We therefore think that the circumstance of less money being collected by the Department in the Southern and Western States than the cost of transportation of the mails therein, constitutes no solid objection either to the legislation of Congress on this subject (for the objection would equally apply to it) or the administration of the Department.

Our attention has been particularly drawn to some of the incidental accounts of the Department. Among others, the account of moneys paid for the Department by Mr. Gouverneur, Postmaster at New York, seemed to require special attention. Upon a full investigation of this account, every item costituting it was found to be accompanied by its appropriate voucher, and the items themselves appeared chiefly to be such as had been ordinarily, under former administrations, paid for by the postmaster at New York, and accredited to him at the Department, as in this instance.

The accounts for printing executed for the Department by Francis P. Blair, editor of the Globe; by Mr. Penn, of Louisville, Kentucky; by Messrs. Hill and Barton, of Concord, N. Hampshire; and by Messrs. True and Greene, of Boston, Massachusetts; from the 1st of October, 1831, to the 1st of January, 1834, were supposed to require minute examination. We compared the accounts with the vouchers which accompanied them, and were satisfied that all the items in the respective accounts were correct, and that the articles and work charged were furnished and executed according to the accounts. The only point of difficulty with us was, the price of printing, of which we were not judges; but from all the information we were able to collect, we believe the prices which have been paid are reasonable. But to prevent any misapprehension on this subject, and that others may have the same opportunity of judging, we present the following statement of the prices paid by the Department, viz.

To S. Penn, jr., Louisville, Kentucky:

For printing post bills, per ream, - -	$1 50
" accounts of mails received and sent,	4 00
" newspaper returns, - - -	4 00
" accounts current, - - -	2 50
" accounts current for distributing offices, - - - - -	3 00
faint ruling, - - - - - -	2 00

To True and Greene, Boston, Massachusetts:

Same prices as above.

To Hill and Barton, Concord, N. Hampshire:

Same prices as above.

The same prices have been allowed to F. P. Blair and to William A. Davis, Washington city, for printing; but they executed the *ruling* for $1 50 per ream.

The above items, together with the advertisements for proposals, which the law requires shall be published twelve weeks in succession, constitute the principal part of the printing done for the Department. The advertising, so far as we can learn, has been done at the usual rates.

The undersigned, without any reference to the manner in which the Post Office Department has been administered in former years, or at the present time, or to the individuals who may have had, or now have, the management of it, are of opinion that the legislation of Congress would be proper to the following effect:

1. That the Department be reorganized in such way as to secure a proper degree of responsibility, not only in the head, but in the subordinate branches of the Department; and for that purpose the auditing of the accounts, and the final adjudication of them, and the disbursements of its moneys, should be confided to officers appointed by the President and Senate.

2. That reports be made to Congress annually, of all the expenditures of the Department, stated in detail, including incidental expenses; also, of all new contracts and modifications of contracts, and their respective prices; also, a statement of the amount paid for the transportation of the mail on each route, in the several States and Territories, as near as may be.

3. That any person employed in the General Post Office shall be prohibited from becoming a mail contractor, or interested in a mail contract, or an agent, with or without compensation, for a mail contractor.

4. That advertisements for proposals to carry the mail, issued previous to the periodical lettings, be made, as near as may be, according to the manner in which, in the judgment of the Postmaster General, the mail should be transported during the period of the contract.

5. That the sealed proposals received from bidders for mail contracts shall not be opened until after the time for receiving bids shall have expired.

6. That reports be made to Congress annually of all failures by contractors to deliver mails, and the action of the Postmaster General in regard thereto, in each case.

FELIX GRUNDY,
JOHN M. ROBINSON.

GOLD AND SILVER COINS.

House of Representatives, *February* 19, 1834.

Mr. C. P. White, from the Select Committee on Coins, to which the subject had been referred, made the following report:

The Select Committee on Coins, to which were referred the report of the Director of the Mint, and also the consideration of the state of the coins, and the relative value thereof, and the valuation of the foreign gold and silver coins in circulation in the United States, respectfully report:

That the subjects referred to your committee for consideration comprehend a full investigation of our monetary system—a department of national economy in which judicious regulations are of essential importance to the convenience, satisfaction, and welfare of the public.

Inquiries of a similar nature claimed and received the deliberate consideration of a select committee in 1831, and also in 1832.

The reports then submitted upon gold and silver coins,

and on the regulations of the mint, comprise a minute investigation of the general principles in regard to money—the conflicting opinions of the most eminent writers and statesmen—the usages and experience of the principal commercial nations—the fluctuations to which our currency has been subjected—and such a full exposition and elaborate discussion of this intricate science, that the committee have determined to adopt these reports as explanatory of their views, and to submit them as a part of this report.

Your committee cannot doubt but that the conclusions expressed in these reports, as the result of the arduous researches and grave consideration of the committees, are sound, practical principles, verified, illustrated, and established by extensive national experience.

The committee are convinced that the constitutional authority delegated by the States to the Federal Government "to coin money, regulate the value thereof, and of foreign coins," is a sovereign power of essential public interest, which Congress should exclusively, incessantly, and effectually possess and exercise.

Your committee do not hesitate to express their belief that the long existing dissatisfaction in regard to the circulating medium, evidenced in part by numerous reports on the journals of Congress, is substantially founded, and ought to be rectified.

The committee think that this well-founded dissatisfaction is attributable to a radical defect in our circulation, to the exclusive use of paper.

The enlightened founders of our constitution obviously contemplated that our currency should be composed of gold and silver coin. General Hamilton recommended the incorporation of the first Bank of the United States, under the impression "that well-constituted banks favor the increase of the precious metals," and that bank notes were "desirable rather as an *auxiliary* to, than as a *substitute* for, that of the precious metals;" and a powerful inducement with Mr. Dallas in advising the establishment of the present bank was, that it would "be the ready instrument to restore the currency of the national coin."

Your committee presume that the existing currency, which is exclusively paper, is not the currency which was contemplated by any of the distinguished statesmen adverted to, or such as Congress intended to establish.

The committee express their decided conviction that the public interest requires that "the currency of the national coin" ought to be restored as early as practicable.

Your committee entertain the belief that an extensive emission of gold and silver coin in the minor channels of circulation, would prove highly advantageous, by rendering the value of the currency more stable and uniform.

The committee are of opinion that a due regard to existing and important interests inculcates the expediency and propriety of gradual meliorations.

Influenced by these sentiments and considerations, the committee recommend the adoption of regulations founded, in their judgment, on incontrovertible principles, and well calculated for the basis of a permanent monetary system, which will operate beneficially as inceptive measures, and will be susceptible of expansion, as attendant circumstances, experience, and the public advantage may authorize or require.

Your committee desire—

To raise the relative value of gold so as to approximate its estimate in general commerce, and preserve silver as the practical standard;

To authorize the assay and stamping of domestic gold in ingots at the lowest charge;

To regulate the value of such foreign gold and silver coins as circulate freely in foreign trade, so as to facilitate commercial transactions without interfering with the public convenience;

To issue a subsidiary currency of gold and silver coins, restricted to effect small payments, and depreciated by such a seiniorage as will protect them from being melted or exported.

They desire, also, to regulate the mint so that it shall defray its own expenses, and save the public revenue from a heavy annual charge.

It is also contemplated to simplify the proportion of alloy in all coins, to reject minute fractions, and to facilitate computation.

The committee beg leave, in furtherance of these views, to submit the accompanying bills.

June 30, 1832.

Mr. Campbell P. White, from the Select Committee on Coins, who were instructed to inquire into the expediency of authorizing prompt payment in coin for bullion delivered at the mint, requiring a seinorage not exceeding the expense of coinage, making gold a tender in large, and silver a legal tender in small payments, or the reverse; and to report whether any and what evils or inconveniences result from the currency of bank notes of small denomination, and what are the appropriate remedies; whether it is practicable and expedient to restrain their circulation, by providing that the bills of such banks as issue them shall not be received in payments to, or deposites on account of, the United States, or by any other and what means within the ligitimate powers of Congress; and what further measures are requisite for the purpose of preserving an adequate supply of gold and silver coins in use, and increasing the specie circulation of the country; and, also, to inquire into the expediency of making silver the only legal tender, and of coining and issuing gold coins of a fixed weight and fineness, which shall be received in payment of all debts to the United States, at such rates as may be fixed from time to time, but shall not be otherwise a legal tender: and having been previously directed to present their views with respect to small coins, and to the regulations of the mint, respectfully report:

That these important inquiries involve a comprehensive investigation of the science of money.

Your committee recently submitted a report on gold and silver coins, the result of a diligent and laborious examination of this interesting subject, which they ask permission to refer to, for the exposition of their sentiments as to general principles and practical effects, which have an important bearing on the matters now under consideration; but, inasmuch as wise regulations in regard to money are highly advantageous, and, when once established, preclude the necessity of subsequent legislation, your committee will hazard the charge of prolixity or of repetition, rather than limit their efforts in propounding and establishing correct opinions upon this difficult and controverted question.

Much misapprehension prevails as to the nature and functions of money: a great deal of money will procure a large supply of other commodities, but this money must have been previously procured from the mines by the expenditure of merchandise of nearly equal value; the real value of gold and silver is regulated, like that of all other articles, by the quantity of labor and capital necessary to bring them to market; and they can only be obtained by the transfer of equivalents.

The abundance of money in a particular country, or in the hands of individuals, is merely an evidence of wealth, the consequence of the ability to purchase it, but it is not the cause of that ability; but money, being the measure by which all possessions are rated or valued, and the merchandise for which all other articles are freely obtained in exchange, it is not unusual to consider money and riches as identical.

Wealth consists in an abundance of necessaries, conveniences, and luxuries, to be consumed for sustenance or gratification, or to be used with a view to reproduc-

tion: the quantity of these products is the just measure of wealth, and not their estimate in money. Money is a convenient mean wherewith to measure and rate their relative value, and to effect their transfer; but the receiver of money does not wish to consume or keep it; he uses it merely as an instrument which saves labor in effecting barter; he parts with it for other commodities, which will support or gratify him, or reproduce articles which may increase his capital or possessions; but money in his chest or bank is unproductive stock, which he hastens to dispose of.

The laborer nominally works for money; but the customary maintenance is the recompense which he requires and actually receives.

Money is to him an order for goods, the medium by which he supplies his wants. It is thus used by all classes, —by the wealthest as well as by the poorest members of society.

Barter being inconvenient, the planter sells his cotton or tobacco for money; the farmer, his wheat or corn; the manufacturer, the produce of his workshop; the merchant, his agency, and the use of his capital; and those of learned professions, their time and abilities: but it will be found, upon investigation, that the result of all transactions is the exchange of labor, services, commodities, or possessions.

Money is a very useful and ingenious machine wherewith to distribute for consumption the products of industry; but only to the extent of the time or labor saved by its use, can it be alleged to contribute, in any degree, to the increase of wealth.

Lands, minerals, &c. are the constituent parts or first principles of wealth; and the annual income or riches of this and of every other country depends upon the number of inhabitants, their ingenuity, industry, and amount of capital. Capital is reserved labor, its accumulated savings which have been expended on useful improvements, machinery, food, clothing, raw produce, and other commodities. Labor being therefore the efficient cause of production, it is evident that national riches can only be increased by greater industry, or by a more advantageous application of the labor used.

Chemical science and mechanical ingenuity may, and doubtless will, as they have already done, render labor more effective or productive, and thereby increase the aggregate quantity of wealth, enabling a portion of the existing labor and capital to be appropriated to other pursuits, adding to the quantity or variety of necessaries or luxuries, and distributing to every proprietor and worker increased means of enjoyment, to be consumed for immediate gratification, or reserved as capital.

The ingenuity of Watt, of Fulton, or of Arkwright, has contributed infinitely more to the comfort, satisfaction, and real wealth of mankind, by increasing the productive powers of labor, than all the precious metals which the fertile mines of the new world have furnished, united to all the benefits, if such there are, which have resulted from Government regulations in regard to money since the commencement of time.

Doctor Adam Smith has very correctly defined money to be "the universal instrument of commerce, by the intervention of which goods of all kinds are bought and sold, or exchanged for one another:" Count De Verri alleges "that money is a commodity or metal whose value is represented by the commodity with which it is exchanged; it is the universal merchandise, that is, the merchandise which, on account of the smallness of its volume, which renders its transport easy, and on account of its divisibility and incorruptibility, is universally accepted, and taken in exchange for any other merchandise." Mr. Locke was of opinion that "money is the measure of commerce, and of the rate of every thing; it is the thing bargained for, as well as the measure of the bargain, being equivalent to the thing sold; it is not only the measure of the value of the commodity it is applied to, but it is given in exchange for it as of equal value." Lord Lauderdale appositely calls money "a labor-saving machine," facilitating barter, which is inconvenient, tedious, and consequently expensive.

According to the profound and sagacious Mr. Hume, money is "nothing but the representative of labor and commodities, and serves only as a method of rating or estimating them. It is not, properly speaking, one of the subjects of commerce, but only the instrument which men have agreed upon to facilitate the exchange of one commodity for another; it is not one of the wheels of trade; it is the oil, which renders the motion of the wheels more smooth and easy."

The minute division of labor, and the infinite variety and amount of its productions, preclude barter, and render a medium of exchange indispensable; it is, therefore, of high importance that this essential instrument of commerce should be as invariable as may be, so that all articles may be accurately estimated by a known and common measure, and that bargains may be fulfilled with integrity, according to the stipulated or implied meaning of the contract.

All experience testifies that gold or silver money is the least variable measure that commercial sagacity has yet discovered; their scarcity, durability, and divisibility, are peculiar properties, qualifying them eminently for this service, and the history of commerce does not record a single instance of their inadequacy.

The real value of the precious metals is ascertained, like that of all other commodities, by the expense of production, but most articles being produced for speedy consumption, any considerable variation from the extent of effective demand will occasion a considerable fluctuation in market price.

It is not so with gold and silver, brought to market as money; they are not intended for consumption, but for permanent use, to be added to the existing stock of money; and this peculiarity contributes essentially to maintain great uniformity in its value. If the annual produce of gold and silver amounts to twenty or twenty-five millions of dollars, and that one-half is consumed in plate, jewelry, and other objects of manufacture, it is evident that the residue, whatever may be the extent of occasional fluctuations in its cost at the mines, can have no sensible influence on the value of an accumulated stock, estimated, by respectable authorities, at from five thousand millions to seven thousand millions of dollars. Experience corroborates the correctness of this view, for it is alleged, by the most esteemed and sagacious observers, that there has not been any appreciable alteration in the relative value of money for nearly two hundred years. The natural tendency of commerce is to preserve, in every country, the like uniformity of value, by distributing the precious metals in quantities proportioned to the relative amount of exchangeable products; money, being an unprofitable commodity, no merchant will import it so long as any other merchandise can be brought in without loss; if a favorable balance of trade compels its introduction, the redundance thence arising will have occasioned a proportional scarcity elsewhere, causing a rise of prices in one country, and a depression in the other, increasing imports, or diminishing exports, until a just distribution or equilibrium is restored; and experience has established that the result of commercial operations is so effective, that the value of a gold or silver currency will rarely vibrate beyond the expenses of transportation.

The peculiarities in a circulating medium of coin, or of paper, are strikingly dissimilar. Gold or silver, being costly articles, which can only be procured by the transfer of an equal value of the products of industry, national interest, the most effective check imaginable, is con-

stantly operating to prevent any unnecessary increase in their quantity; on the other hand, the cost of bank notes is trivial, and their emission yielding a large profit to the privileged issuers, the prospect of gain powerfully encourages the most active efforts for their increase; a sudden increase of gold or silver is speedily and profitably corrected by the purchase of foreign goods, made cheap by a correspondent scarcity of money; an important increase in paper currency can only be corrected by one of those painful vicissitudes in commerce which we periodically experience.

The aggregate amount of money in general commerce, or of currency in a particular State, has an important effect upon market price, but none whatever upon real value or riches; a day's labor, a bushel of wheat, ten pounds of cotton, of coffee, or of sugar, would be equally beneficial or gratifying to consume, to use for reproduction, to exchange for other commodities, or to save as capital, whether they were respectively rated, or valued in money at ten cents, at one dollar, or at ten dollars each. Money or market price is the mode of rating or of comparing values, but the measure of wealth is to be ascertained and estimated by the variety or quantity of necessaries or luxuries which every individual can obtain in exchange for his crop or manufacture, or labor, or services; a general and permanent increase or decrease of money has a proportionate effect upon prices, but none upon exchangeable value; this is regulated by the quantity of labor, which includes capital expended on production: an increase in the produce of labor is a real increase of wealth, but it does not add to exchangeable or money value. This position will be illustrated by reference to our principal product, cotton; its exchangeable or money value bears no proportion to the actual increase of its quantity; its export in 1830, compared with 1806, is eight and one-half times greater in quantity, and but three and a half times in money price; so far as this increase is attributable to an increased expenditure of labor and of capital in producing the quantity exported, to that extent has its exchangeable and money value increased; so far as the increase of produce has arisen from the superior fertility of new lands, there has been an increase of riches, but no increase of money value, every pound of cotton being as valuable now, for clothing or other useful purposes, as in 1806; the relative increase in the produce of the labor employed in raising it, adds to the real wealth or income of every consumer, by enabling him to use more or finer cotton clothes, or to procure the usual supply in exchange for a less portion of his labor, and thus affords him increased means to obtain a greater variety or greater quantity of other gratifications.

An increase in the currency is an increase of bills of credit, which adds to the number of transfers and of new undertakings, by affording the means of effecting purchases and payments; but the transfer of articles already possessed does not add to their real value; and the labor and capital employed in these pursuits must, in the nature of things, have been withdrawn from some other occupation yielding the ordinary recompense; for, labor and capital being the effective means of production, of subsistence, and of income, can never be unoccupied in a rising country. The increase in the produce of industry, which is the true measure of wealth, is slow under the most favorable circumstances; as men are not suddenly created, nor can the machinery and commodities which constitute capital be rapidly multiplied and accumulated. The transfer of labor and capital will have been advantageous if the produce be increased, but the probability or reality of beneficial results from the feverish efforts of commercial excitement, may be fairly questioned. An actual increase of products is a positive increase of riches, which adds to the quantities of comforts, of gratification, and of capital, and presents appearances and consequences the very reverse of the painful aspect uniformly attendant upon these delusive periods of inconsiderate overtrading.

In the opinion of your committee, no circumstances can arise which could usefully or legitimately require a sudden and important increase of currency; a great addition to the productive power of industry will add, in the like ratio, to the quantity of necessaries and luxuries, to the real wealth of society, but it does not necessarily create any addition to money value.

Upon mature deliberation, the committee cannot doubt the correctness of the following general principles in regard to money, corroborated by the history of commercial nations, and recorded in their former report:

1st. "That gold or silver is the only sound, invariable, and perfect currency that human wisdom has yet devised."

2d. "That every nation will possess its equitable and useful portion of the gold and silver used as money, if they do not repulse it from domestic circulation, by substituting a different medium of exchange."

3d. "That *one metal* may be selected with a certain assurance of finding *in the metal chosen* such proportion of the entire amount of the money of commerce, as their exchangeable commodities bear to the total amount of merchandise produced."

4th. "If both metals are preferred, the like relative proportion of the aggregate amount of metallic currency will be possessed, subject *to frequent changes from gold to silver, and vice versa*, according to the variations in the relative value of these metals."

The committee think that the *desideratum in the monetary system is a standard of uniform value;* they cannot ascertain that both metals have ever circulated simultaneously, concurrently, and indiscriminately, in any country where there are banks or money dealers; and they entertain the conviction that the nearest approach to an invariable standard is its establishment *in one metal*, which metal shall compose exclusively the currency for large payments.

Impressed with the accuracy and practicability of the principles and views detailed, the committee do not conceive it to be of much importance, abstractedly considered, whether "gold be a tender in large, and silver a legal tender in small payments, or the reverse." The money of England, for large transactions, is gold; that of France is in practice silver; and the prosperity of these nations, under different systems, exemplifies that skill, industry, and capital, are the active and efficient causes of producing wealth.

If the currency of the United States is to continue to be composed exclusively of bank notes, the committee would recommend the regulation of gold at such increased value as would convert the specie fund into that metal. Gold being the money of England, where our foreign trade and exchanges chiefly centre, an adverse balance of payments would be more quickly perceived and liquidated, and the currency would maintain greater uniformity of value; a real par of exchange would obtain, the variations from which would promptly indicate the course of trade, and suggest the necessary corrective.

The committee cannot perceive that any benefit could arise from "coining and issuing gold coins of a fixed weight and fineness, which shall be received in payment of all debts to the United States at such rates as may be fixed from time to time."

A varying scale of value in coin must have a prejudicial effect on contracts, issuing to the gain of the importing merchant, the owner of gold, or the Treasury, according to the nature of the regulations or of events.

If it be contemplated to coin gold for this object upon Government account, at a high relative rate, the bond-payer or debtor for lands will scarcely apply for a medium of payment by the use of which he will be no gainer; if

it be coined without charge at an enhanced value, the Treasury will lose whatever the depositor at the mint may gain; as the disbursements of the Government, howsoever received, must be paid, like other debts, acccording to the established standard.

Import duties form an important and component part of the current value of the great mass of the foreign commodities; this value should be in accordance with the practical currency, and uninfluenced by any uncertain or fluctuating measure; besides, the aggregate amount of the public revenue has heretofore been justly considered as an instrument which might be usefully and effectually exercised for the beneficial object of maintaining uniformity of value in the circulating medium.

Silver is the ancient currency of the United States, the metal in which the money unit is exhibited, the money generally used in foreign commerce, and that description of the precious metals, in the distribution of which we exercise an extensive agency. The committee, upon due consideration of all attendant circumstances, are of opinion that the standard of value ought to be legally and exclusively, as it is practically, regulated in silver.

Upon proceeding to inquire into the "evils and inconveniences of bank notes of small denominations, and the appropriate remedies," your committee beg leave to remark that, in the report already adverted to, they endeavored, by a detail of the ordinary course of banking business, to show the impracticability of maintaining any coins in circulation, if the emission of notes of the like denomination be permitted; that the cheapest currency, if it enjoy confidence, will eject all others from circulation; and that the issue of notes of one dollar and upwards establishes an unrestricted paper system, until its nominal convertibility becomes operative by an adverse balance of payments occasioning a free export of specie.

The committee confirmed the total inefficiency, in ordinary times, of the convertibility of notes as a restraint upon issues, by referring to authentic statements of the relative circulation of the most important banks, which exhibited an excessive and injurious increase of their notes within the last two years—an increase which has materially degraded the value of the currency—which could not have been effected if any practical restriction steadily prevailed; which exposes the integrity of contracts to be impaired by the variable and interested operations of banks; and which chiefly occasions the property and industry of the United States to be frequently subjected to injurious vicissitudes and reactions in trade, to "those jerks and changes" (as they are emphatically characterized by Mr. Baring, an eminent banker) "so fatal to credit and to commerce."

Bank notes of small denomination are equally convenient and effective in small payments as the larger denominations in more extensive transactions. But they are highly objectionable in two respects.

1st. In subjecting the industrious and uninformed classes to the risk of loss, from the impracticability of knowing the genuineness of the paper, or the solvency of the issuers.

2d. Their use renders the currency exclusively paper, and removes the only steady and effective limitation upon excessive issues.

It is in this latter indirect or incidental effect, that serious "evils or inconveniences result from the currency of bank notes of small denominations." It may reasonably be asserted that one-half of the currency used is composed of notes under twenty dollars, including small change. According to this data, the entire amount of bank notes of the denomination of twenty dollars and upwards must, in 1830, have been about thirty millions of dollars. Suppose, for illustration, the other half of the currency had been gold and silver, as is the case in England; or that Congress, at that period, had interdicted effectually any further increase of small notes; could the banks, under such regulations, have increased their issues, as is estimated, fifty per cent.? Would not a general rise of prices, to that extent, have compelled the banks to issue into circulation, not only fifteen millions of notes of twenty dollars and upwards, but fifteen millions of coin also, to fill up the minor channels where the further issue of small notes was prohibited? The banks could not have met such a drain upon their vaults, in addition to the foreign demand for specie; or rather, such excessive issues and depreciation of the currency, with its evil effects upon commerce and industry, never would be experienced, if the emission of small notes was interdicted.

The committee cannot doubt the power or the duty of Congress to remedy all defects in the currency. The constitution of the United States expressly states that "the Congress shall have power to coin money, regulate the value thereof, and of foreign coin," and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, vested by this constitution in the Government of the United States;" and it recites that "no State shall coin money, emit bills of credit, or make any thing but gold and silver coin a tender in payment of debts."

It appears to your committee that the obvious intent and meaning of these special grants and restrictions was, to secure permanently to the people of the United States a gold or silver currency, and to delegate to Congress every necessary authority to accomplish or perpetuate that beneficial intention. The committee are not disposed to question the efficacy or constitutionality of the measure suggested by a highly respectable authority, Mr. Gallatin, as remediate, that "Congress may, if it deems proper, lay a stamp duty on small notes, which will put an end to their circulation."

The evils complained of—excessive issues of paper, and the consequent disappearance of gold and silver coins—are the growth of forty years. The committee, in their previous report, attempted to trace its progress; and it merits notice, that the acts of Congress of 1791 and of 1816 have contributed, in some degree, to produce, sanction, or prolong the general use of a paper currency.

Under these circumstances, the committee cannot recommend a prompt exercise of rigorous measures, though "within the legitimate powers of Congress," until mild and patient efforts shall have failed of success.

The committee approve of the suggestion in the resolution under consideration, "that the bills of such banks as issue small notes shall not be received in payments to, or deposites on account of, the United States;" but if the vast importance of the Treasury deposites to the Bank of the United States would induce that institution to apply the like regulation to all other receipts into its various departments, the measure and its beneficial consequences would be more comprehensive and effectual.

The discussion of the renewal of the charter of the Bank of the United States will enable Congress to act with important effect upon the currency.

The right may be reserved, as in other States, to modify its privileges as regards the denomination or amount of its issues according to the future pleasure of Congress.

If the emission of notes or drafts under twenty dollars of the Bank of the United States was prohibited, it would open an extensive field for the use of national coin, in objects of distant disbursement, for which the notes of State banks would not freely or satisfactorily circulate. Such a limitation would present a strong appeal to the State Legislatures for a proportionate and timely restraint upon their institutions, rather than wait the rigorous measures which the General Government will probably adopt in a matter of such importance to the public interest.

The committee are induced to believe that the prohibition of all notes under twenty dollars would cause one-half of the currency to be metallic; and as the increase of such a mixed circulation to an extent which would influence prices unfavorably, or disturb the equitable discharge of contracts, would invariably require the banks to furnish an addition to the amount of coin, equal to the increase in the quantity of notes, it is conceived that excessive issues, or important variations in the value of the currency, would no longer be experienced.

The only measure necessary for "increasing the specie circulation of the country," is to make room for its circulation. All experience in this matter is in accordance with that of France in 1795, and of England since the return of peace. The destruction of the assignat currency occasioned every channel of circulation in France to be filled immediately with its appropriate supply of gold and silver coin; the resumption of specie payments in 1821, and the banks being restrained in April, 1829, from emitting notes under five pounds sterling, had the like salutary effect in England; establishing, to the conviction of all unprejudiced minds, that the operations of commerce will distribute to every nation its useful supply of the precious metals, if unobstructed by local regulations.

Although free trade will certainly produce an equitable distribution of the aggregate amount of the money of commerce, yet, inasmuch as the portableness of gold, presenting great value in small bulk, qualifies it eminently for the principal measure of exchange in a particular country, whilst silver, from opposite properties, possesses peculiar recommendations for coin of small value, public convenience, therefore, requires the use of both metals—gold, where there is no paper for large transactions, and silver to facilitate retail trade, the distribution of articles for daily consumption, in portions sufficiently minute to meet the wants of every applicant; it is also necessary, for the protection and convenience of the public, that coins so indispensable should be permanently supplied.

The committee will proceed to "report what further measures are requisite for the purpose of preserving an adequate supply of gold and silver coins in use;" and, in this inquiry, the subjects of seiniorage and of small coins may be appropriately discussed.

If the emission of notes under twenty dollars was interdicted, the minor channels of circulation would be immediately filled with coin; but whether that coin would be composed of gold and silver in the most convenient proportion for the public use, would depend altogether upon the regulation of the standard. The existing law, which undervalues gold, virtually precludes the use of that metal: if its value was raised beyond the market rate, it would cause silver to disappear: if their relative values were adjusted with the utmost precision, unavoidable vibrations would speedily disturb the accuracy of the adjustment; and experience teaches that the difference of a minute fraction of one per cent. will cause either metal to be withdrawn from circulation; a provident Government must guard against these alternations, as the public convenience and satisfaction require the steady use of the customary coin.

Although the committee have recommended the standard of value to be regulated in silver alone, they are not insensible of the utility of using gold coins also; but their convenience cannot be obtained, without hazarding the loss of silver as the chief measure of value, unless gold be subjected to a seiniorage, and restricted to small payments. This course is analogous to the money system of England, and the only means yet practised, by which coins of both metals can be freely procured and permanently maintained in general circulation.

The charge for coinage, called sein orage, has been of various extent: as an abstract proposition, it may be considered as equitable as any other tax; when it is levied, as in France, with the view of defraying the expenses of the mint, it appears to be strictly just, and entirely unobjectionable: these expenses are contracted for the public convenience; and the security and facility given to small transactions from the use of national coin, is an ample compensation. The charges on coinage must be borne by the nation, and whether they are paid out of the revenue, as in England, or at the mint, as in France, the result is not materially different. The French system estimates gold bullion at about three-tenths of one per cent., and silver at one and one-half per cent. under its weight in standard coin; and as this regulation probably restricts mint operations within a useful limit; it seems preferable to free coinage; the expenses actually incurred at the mint compose a portion of the real cost of coin; and there does not appear to be any substantial reason for abating it, or for transferring the charges incurred at the mint to the general revenue. In point of fact, however, there is no important difference between the French and English system: by the former, coin can be obtained for gold bullion, deducting three-tenths of one per cent.; while the delay in coinage at the London mint is valued at from one-sixth to one-half of one per cent., according to the demand for bullion. The committee will recommend the adoption of mint regulations, directing the melting and assaying of domestic gold at a trifling expense; but that coinage be hereafter effected by prompt payment for gold bullion, at a discount of one-half of one per cent. and for silver at one per cent.

A seiniorage on coin, as a branch of productive revenue, when levied by the countries which furnish the chief supply of gold and silver, will affect, in no unfavorable manner, the interest of other countries, from the peculiar characteristics of money and of mining. Spain and Portugal exacted, for a long period, one-fifth (quinto) of the gold and silver produced in their colonies; and, to the latest period of possession, Spain levied a tax of ten per cent., aggravated by mint charges to twelve and a half per cent. on silver; these charges added to the real cost of production, and thereby prevented the working of such poor mines as would have defrayed expenses if there had been no tax; but gold and silver money being merely an instrument of commerce—equally effective, whatever may be its quantity—its value increasing or decreasing in a ratio the reverse of the supply, the limitation of quantity produced by the colonial tax inflicted no injury on the countries which purchased and used these metals; nor will a seiniorage imposed by the Government, on the issue of coins exclusively from its own mint, affect the nominal value of the currency, if it were practicable to restrain the issue to the precise number of coins which would circulate if there was no tax. Mr. Ricardo has correctly remarked, that, "while the state alone coins, there can be no limit to this charge of coinage: for, by limiting the quantity of coin, it can be raised to any conceivable value."

In 1819, the silver coins of England, which had been excessively debased by wear, were withdrawn, and a new coinage, on the principle recommended by Lord Liverpool, was issued. These coins, which are fabricated on Government account, are subjected to a seiniorage varying with the market value of silver of from six to ten per cent.; that is to say, a pound of standard silver is coined into sixty-six shillings in place of sixty-two shillings, as was the ancient custom; and these degraded coins are limited to effect payments under forty shillings. Thirteen years have since elapsed, and the currency, which is the principal measure of value, having, in the interim, been a subject of frequent and warm discussion in that country, the committee conclude that no inconvenience or injury has been sustained by an excessive issue of the depreciated silver coinage, or it would not have escaped animadversion.

This system is, however, highly disapproved of by authorities for whose opinions the committee entertain great respect. The late Secretary of the Treasury, in his valuable report on the relative value of gold and silver, observes, "that the whole productive wealth of a nation is the aggregate of accumulations from small transactions; and the character of the English monetary system, which has one standard measure for small, and another for large ones, may be practically understood, when it is observed that a tenant who receives, in payment for his products, silver tokens at 66*s.* for the pound, equal to 71*s.* 4½*d.* the pound for fine silver, may be obliged to pay his rent and taxes in a medium wherein the pound of fine silver will only pay 64.43 shillings, making a loss to him of about seven per cent. on all that part of his income which may be demanded of him in sums over forty shillings: such would inevitably be the consequence of a redundant coinage of silver. How far this evil may be practically averted by restricting the coinage, and keeping the supply of shillings short of the demand, whereby the price may be kept above the intrinsic value, can only be known by practical observation. But it can scarcely be possible, under any state of things, to convert a sum of money in silver coins into gold, without paying, at least, the difference between the mint price of silver, and the nominal value of the silver coins (viz. 66*s.* —62*s.*) near six and one-half per cent.; and Mr. Gallatin, in his Essay on Banks and Currency, has remarked, that "Great Britain, in adopting gold as the sole standard of value, has found it, however, absolutely necessary to admit silver coins for payments not exceeding forty shillings." This limitation would, it seems, have been sufficient for the object intended; but whether, in order to prevent the exportation, or only the better to assist the adherence to an abstract principle, the new silver coinage has been overrated about nine per cent., by coining the troy pound weight of standard silver into sixty-six instead of sixty-two shillings. This debased coin is attended with the same inconvenience as a paper currency issued by Government. There is, on account of the profit, a temptation to issue too much, and no sure means can be found of ascertaining the amount wanted for effecting the payments to which that portion of the currency is applicable. It is worthy of remark, that England, from a scrupulous adherence to a single standard, should have actually established two distinct standards of value; one for wholesale and the other for retail transactions. It is obvious that, since a debased coin can neither be profitably exported, nor applied to other purposes, any considerable excess beyond what is actually wanted for effecting small payments, must cause a depreciation. Should Government be ever so moderate in its issues, the facility with which that coin may be, not counterfeited, but illegally imitated and put into circulation, must ultimately defeat the object intended. In the meanwhile, should the excess be such, that the retailers, of every description, who are obliged to take in payment silver inapplicable to wholesale purchases, could not dispose of the surplus, they must, to indemnify themselves, add something to the prices. We believe this to be already the fact; and that this, like every other depreciated currency, operates as a tax, which affects, principally, those who are compelled to purchase any thing by retail."

The committee cannot assent to the opinions here advanced. Whatever may be the composition or the relative value of the circulating medium used in large commercial transactions, and in the liquidation of balances with foreign nations, that measure will be the practical standard, and prices of all commodities will be thereby determined. Wholesale prices necessarily regulate prices by retail; the former price is, on an average, the lowest rate at which production will be continued. Retailers purchase at this minimum price, and the recompense for effecting sales will be in proportion to the time, labor, and capital expended; if this compensation falls short of what is usual in other pursuits, the retailer will abandon the business; if his profits are higher, competition will speedily bring them to the ordinary rate. Should the English retailer find it necessary to "add something to their prices" when payments are made in silver, will not the tenant who has rent to pay in gold, the mechanic, laborer, and all others, who exchange their services or their wares for silver coin, be equally attentive to their respective interests? If it be practicable to issue this subsidiary currency to such excess as would produce the effect alleged, this general rise in price to the extent of the seiniorage exacted would merely frustrate the covetous intention of the issuers, without affecting the wages of labor, the rate of profits, or amount of individual income.

The suggestion that the British Government have issued silver coins to such excess as to depreciate their nominal value, involves the supposition that they have taken active measures to defeat the sole object of their own laws; for the consequent rise in prices would inevitably dissipate the contemplated profit at the mint, and would hazard the exportation of these coins.

Although it has too frequently been the practice of necessitous or unjust Governments to issue currency to excess, whether the medium used was debased coin or paper, yet the more general prevalence of intelligence, and of integrity of purpose, do not seem to warrant the assumption, so universally proclaimed, that pecuniary regulations cannot safely be intrusted to the discretion or superintendence of Governments.

It is believed that the Commissioners of the Sinking Fund in England, and in the United States, execute the highly important trust confided to them with singular propriety and correctness; and the fact that the unfunded debt, called exchequer bills, circulating at the lowest rate of interest, is issued by the British Government (notwithstanding its pressing wants) with such moderation that it bears a considerable premium, evinces conclusively that fidelity and integrity are to be found in all stations.

The committee do not entertain the slighest apprehension of impropriety or mismanagement in the issue of any description of coins that Congress may think proper to direct; but a superabundant revenue precludes the possibility of hazard from the imposition of a seiniorage for the sole and exclusive object of public advantage.

It may reasonably be presumed that sound views are now so widely diffused that no doubts are entertained of the evil effects of an excessive increase of currency: the consequent depreciation in the value of the circulating medium, and general rise of prices, operate with peculiar severity on all fixed money incomes; and as that of Government is comparatively immense in amount, they are especially interested in the maintenance of a sound currency, and they are the natural protectors of private rights in that respect. Government will find no inducement to issue small coins, howsoever degraded, to excess; and as the community will not demand a greater supply than is indispensable to their convenience, it is confidently predicted that prices will not be unfavorably influenced.

The public are not so much interested in the quality or composition of the currency as in the uniformity of its value, so that the buyer and seller, the producer or consumer, may feel assured of procuring the just measure of his bargain, and that quantity of money which will bear the like proportion to the mass of exchangeable commodities, as when the contract was made.

Treasury notes, bank bills, or other promissory notes, sustained by public confidence, will effect exchanges and payments as conveniently and satisfactorily as gold or silver money, if it were practicable to regulate the quantity in like manner. If, for example, fifty millions of dollars,

in gold or silver coin, is the quantity of circulation necessary for the United States, if paper was not used, is it not evident that the like amount in bank notes would maintain foreign exchanges and prices at the same rate?

It cannot be doubted but a certain reduction in the amount of bank issues in 1815 and 1816 would have lowered exchanges to par, and elevated the currency to the value of silver, whether the banks had resumed specie payments or not; a steady curtailment of the present circulation will have a similar effect, and soon cause specie to be abundant.

It is the quantity, the nominal amount of coin, or its representative in bank notes, which regulates the value of the currency and prices, and not the intrinsic value of the medium of exchange. Does not paper circulate altogether, on this principle, on the strength of public confidence, and not from intrinsic worth? and may not the banks raise or lower its value at pleasure?

Hence it clearly and conclusively follows, in the opinion of your committee, that where the regulation as to the quantity of currency is under the exclusive control of Government as coiners, as is the case in France, and with equal effect in England over the subsidiary currency, any amount of seiniorage may be exacted, if the numerical amount of coins be limited to the quantity of perfect coins previously circulating.

Lord Liverpool, when master of the English mint, has stated in his celebrated letter upon coins, "in a period of eighty-three years, no more than £584,764 17*s.* 3½*d.* sterling, of silver, has been coined, and from the year 1760, a period of forty years, no more than £63,983 15*s.* 5*d.* sterling has been coined, and the silver currency has gradually fallen into its present state of imperfection;" "that the deficiency of shillings, in 1760, amounted to one-sixth of their original weight, and that of the sixpences to at least one-fourth;" "in 1798, it was found that the deficiency will amount in the half crowns to more than nine per cent., shillings twenty-four per cent., and sixpences thirty-eight per cent.;" and, in reference to the effects of currency on prices and foreign exchange, he justly remarks, "when the exchange with foreign nations is at any time against this kingdom, any defect in those coins which are the principal measure of property, will first show itself by a rise in foreign exchanges to our disadvantage; and the merchant, to compensate the loss he sustains thereby, will naturally raise in due proportion the price of all his merchandise: this increase of price gradually extends itself to every commodity, and at last reaches even the most common necessaries of life: such is the progress by which the price of all commodities is raised in consequence of a defect in our coins. But this rise is influenced by a defect in that sort of coin only which is the principal measure of property, and in which our balances to foreign countries are regulated and paid. The truth of these principles is fully illustrated by comparing what happened in the reign of King William III, with what has happened of late years. In the reign of King William III, when the silver coins were the principal measure of property, and were greatly defective, the price of all commodities rose in proportion; but, since the gold coins are become the principal measure of property, though our silver coins are upon an average as defective as they were before the general recoinage in the reign of King William III, the price of commodities, even when purchased with silver coins, has not risen on account of the defect of these silver coins; the present defective silver coins continue to be paid and received at their nominal value, and according to the rate at which they can be exchanged for our gold coins; sometimes, when they are wanted for particular purposes, they are exchanged even *at a premium above their nominal value.*"

This brief notice of the experience of England, during a century of unexampled prosperity, amidst the most extraordinary vicissitudes, commercial and political, practically demonstrates, to the conviction of the most sceptical, that a subsidiary currency, materially degraded by wear or seiniorage, will circulate without prejudice to retail prices, whether limited to small payments or not, provided it be restricted to the quantity which public convenience may require.

Our own experience is corroborative. The small change in use was long exclusively, and is yet partially, Spanish coins, greatly debased by wear; yet, until recently that the banks have made some objection to receive *large amounts of quarter dollars* by tale, these small coins have circulated without the slightest inconvenience or disadvantage, though the coins of twenty-five cents are believed to be defective about four per cent., twelve and a half cent pieces from ten to twelve per cent., and those of six and a quarter cents from fifteen to twenty per cent.; and it may be noticed, as a striking illustration of the effect of a limited supply, that these small defective coins are as readily received and disbursed by retailers as our own recent issues of perfect coin, of twenty-five, ten, and five cents each.

Do not copper cents circulate freely, and with utility, although degraded by a seiniorage at the mint of more than twenty-five per cent.?

Although theory and experience authorize the belief that a subsidiary currency will bear a heavy seiniorage, yet the committee have no disposition to recommend a higher rate than will accomplish two objects.

1st. Its permanence in circulation, by being disqualified for exportation or for melting; and,

2d. To derive a revenue from its coinage equivalent to the expenses.

The amount of seiniorage contemplated will, it is conceived, be insufficient to invite counterfeiting. The expense of fabricating small coins is very considerable; imitating and uttering is expensive and dangerous; and deception to any great extent, from the general and constant intercourse with banks, may be deemed impracticable.

On this point, Lord Liverpool observes, "that our silver coins have been, for almost a century, in a very defective state; that the present silver coins are, on an average, at least *one-third* less in weight and value than those that will be made upon the plan I have proposed. Our present silver coins are mere counters, without any impression on the face or reverse, or any graining on the edges, or indeed any exterior mark by which they can be distinguished as coins; so that the counterfeiter could easily have fabricated or imitated coins of this description, with very little risk, and in any quantity; and his profit must have been very great, if he could have practised the fraud before mentioned; and yet it is certain that he has never thought it for his interest to engage in this sort of traffic."

The committee are opinion that, under existing circumstances, it would be vain and inexpedient to attempt any further improvement in the currency than the introduction of coin for the payment of labor, and for retail business.

Under this impression, they believe that the ingress and egress of all such foreign gold or silver coins as are current in general commerce, ought to be facilitated by reverting to former usage for all sums over one hundred dollars, that of regulating them as a legal tender at their intrinsic value.

They think that the practice of coining gold or silver at a heavy expense at the mint, is an inexcusable waste of the public revenue, totally useless while bank notes are the principal measure of value; and, therefore, free coinage ought to be entirely discontinued.

They recommend that the relative value of gold be fixed at 1 for 15.625 of silver; and that hereafter bullion tendered at the mint should be paid for in coin within five days from the period of deposite, deducting one-half of one per cent. from the quantity of gold, and one per

cent. from that of silver bullion, excepting domestic gold, which, at the pleasure of the depositor, may be melted and assayed, and stamped, as to weight and fineness, at a graduated charge, not to exceed one dollar per hundred ounces.

The committee believe that minute fractions of weight ought to be rejected, and that such simplicity of regulation should be adopted as would enable the least informed to judge accurately of the intrinsic value of the current coins.

They think that a subsidiary currency may be established on the following basis, with great public advantage: by estimating the relative value of gold at the occasionally high rate in commerce of 1 to 16 of silver, and imposing a seiniorage on both metals; and directing the coinage of the integral parts of an eagle and dollar in such even or arbitrary proportions as would cause gold of this standard, in coin, to be worth four cents per grain, and silver four grains for one cent.

The committee believe that the effectual accomplishment of this system would produce the following benefits:

1st. It would maintain an incomparably greater degree of uniformity in the value of the currency.

2d. It would secure the industrious classes of the community from all risk of loss, upon receiving payment for their labor.

3d. It would enable the public to procure, at their pleasure, gold or silver coins for all minor objects of expenditure, and preserve permanently in circulation an abundant supply of the customary coins.

4th. It would exclude finally from the minor channels of circulation all foreign coins.

5th. It would secure to the importing merchant the full value of foreign coins, and preserve them while here in transit in that state most suitable and profitable for exportation.

6th. It would protect the revenue for the future from being taxed with a useless and heavy expenditure yearly at the mint.

March 17, 1832.

Mr. Campbell P. White, from the select committee to which was referred the consideration of the state of the coins, the relative value of gold and silver, the expediency of regulating the value of certain foreign silver coins, and of amending the laws governing the Mint of the United States, made the following report:

That your committee have examined the several subjects referred to them with that deliberation which the magnitude of the great interests involved in the regulation of the standard of value demands.

The essential importance of a sound circulating medium, as a standard by which values may be computed, exchanges effected, and contracts fulfilled with uniformity, integrity, and justice, is universally acknowledged.

This measure of value and instrument for facilitating barter has been subjected to various legal regulations in almost every nation of whose acts there is any authentic record.

In modern times, its principles have been elaborately discussed and investigated by enlightened statesmen, by eminent philosophers, and more recently by numerous writers, practically acquainted with extensive pecuniary concerns. Talents of no superior order have successfully explored the secret and silent operations of nature, and established principles and consequences which practice and experiment universally realize to be correct and effectual.

How then is it, that the science of money is doomed to endless controversy, and that there is no approach towards uniformity of sentiment in any legislative body, upon a matter so intimately connected with national prosperity?

Is there any mystery in the system? Are the uses and movements of money too intricate and involved to be satisfactorily investigated and clearly understood? Or has the frequent interference and changes of system, by all governments, for selfish or laudable objects, or under the influence of erroneous views, rendered a system, which is only in appearance complex, really intricate or incomprehensible?

The late Secretary of the Treasury has justly remarked, in his very able report upon coins and currency, that "the public mind is not a little prone to delusion on the subject of precious metals and money, which has no doubt caused much injudicious legislation on these subjects."

It being daily and universally realized, that money will procure every thing—necessaries, luxuries, and all kinds of possessions, for gratification or for profitable use—the impression naturally arises, that if its amount is numerically large, in the like ratio must be its efficiency in supplying these wants, and in promoting industry and prosperity.

Minds of great acuteness have yielded to these plausible but delusive impressions, and it will scarcely be credited that the nations which have furnished the most striking proofs of this influence, of late years, are England and the United States.

It is truly singular that these countries, eminently distinguished by their intelligence and progress in commerce, arts, and wealth, may be cited as corroborative evidence of the correctness of the observation quoted.

For five-and-thirty years the press in England has teemed with disquisitions upon currency, and able and frequent discussions in Parliament confirm the fact of various views, and much dissatisfaction.

Since the late war our experience is not dissimilar. Congress have rarely assembled without having its attention invited to this subject; and the journals of the last session, in recording five elaborate reports upon currency, coins, and banks, conclusively evince that the existing system continues to be unsatisfactory to the public.

The committee do not hesitate to express their entire conviction that these resembling and perplexing circumstances are the effects of similar causes—the suspension of specie payments in 1797 and 1814.

The British Government effected a radical renovation of the currency in returning to a gold standard; a wise and judicious measure, viewed as an abstract proposition, but perhaps liable to severe animadversion for its oppressive exaction upon the income of industry and labor in that country; requiring an enormous amount of contributions for rent, government expenses, and public debt, to be paid in gold, when the chief part of these obligations might have been equitably discharged, as it was contracted, in depreciated paper.

Our contracts of that nature were fortunately trivial in comparative amount. It is, however, stated, by eminent authority, that the Government, during the late war, gave "certificates of stock, amounting to eighty millions of dollars, in exchange for sixty-eight millions of dollars in such bank paper as could be obtained. But the sum of sixty-eight millions of dollars received by the Government was in a depreciated currency, not more than half as valuable as that in which the stock given in exchange for it has been and will be redeemed. Here then is another loss of thirty-four millions of dollars, resulting incontestably and exclusively from the depreciation of the currency, and making, with the sum lost by the discount, forty-six millions of dollars."*

The measures of Congress consequently have inflicted (like those of the British Parliament) a relative degree of exaction upon our tax-payers, in requiring the war debt to be discharged according to our original metallic standard.

The committee highly approve of the return to the standard of silver, notwithstanding the incidental increase of the public debt; but the omission to mitigate that evil, by compelling (as was done in England) the simultaneous restoration of our previously prevailing and customary currency, is greatly to be regretted.

* Report of the Committee of Ways and Means on the Bank of the United States.

From 1783 until the late war, the quantity of gold and silver in domestic circulation was very large, amply sufficient to maintain a salutary degree of regularity in the total amount of currency, and calculated to secure, as far as legal regulations can accomplish, the very desirable object "that every person who has coins of either silver or gold may easily exchange them for coins of the other metal, and that the people may enjoy the advantage of using either species of coins, according to convenience or pleasure."*

The arduous and responsible duty which devolved upon your committee, appeared to embrace an expansive and comprehensive consideration of our system of money, an examination of the principles upon which it was originally founded, the nature and effect of existing measures, and the suggestion of remedies for its alleged defects.

In the course of their inquiries and investigations, the committee have perused and considered, with great care and attention, the reports upon gold coin, and also upon silver coin, which were presented by a select committee at the close of the last session of Congress. The sentiments therein expressed as to general principles; the inferences from the conflicting opinions of eminent authorities; the various usage and experience of other nations, as well as our own; the reluctance evinced to regulate the value of gold, and the recommendations in regard to foreign silver coins, are so entirely in accordance with the opinions of your committee, that they have concluded to adopt them, and beg leave to submit those reports as a part of this report, and as a full exposition of their views upon the points noticed.

It is very evident from the tenor of the report on gold, which they now present, that the select committee of the late Congress were duly impressed with the importance of the facts and arguments submitted to their consideration by the honorable committee of the other branch of the Legislature, in regard to the defective state of the currency. There appears to have been no diversity of opinion as to the existence of the evils stated, or the advantage of their eradication, if it were practicable. It was alleged "that if it is the interest of the banks that we should have no gold coins, the public interest of the country is, that we should have coins of gold as well as coins of silver;"* that "no man can foresee how far the present course of issuing paper money will proceed, or how long paper money, in its present forms or abundance, will be tolerated."* The select committee appear to have assented to the correctness of the proposition, in alleging that "the partial introduction of gold and silver into general circulation, would no doubt render our current medium a more certain and stable measure of exchange;"† but they maintained that, in order to secure the "use of gold eagles and their parts, and also of silver dollars, the issue of bank bills of one, two, three, five, and ten dollars, must be prohibited;"† and that, "independent of other existing difficulties, the committee entertain the decided conviction that the public faith solemnly guaranties to the proprietors of the Bank of the United States the privilege to issue five dollar notes."†

An insuperable difficulty having been removed by the proposed renewal of the charter of the bank, now submitted to the consideration of Congress, your committee conceive it to be respectfully due to the other legislative department of the Government, that their remedial suggestions, as to the currency, should be more fully discussed and considered.

The committee coincide in the opinion that "the constitution of the United States evidently contemplates, in the power conferred upon this Government to coin money, regulate the value thereof, and of foreign coin, and the restriction imposed on the States to make nothing but gold and silver coins a tender in payment of debts, that the money of this country shall be gold and silver."‡

The losses and deprivations inflicted by experiments with paper currency, especially during the Revolution; the knowledge that similar attempts in other countries (except its very limited use in England) were equally delusive, unsuccessful, and injurious; had likely produced the conviction that gold and silver alone could be relied upon as safe and effective money.

These precious metals, called, "by way of eminence, money," had circulated throughout all time as an instrument of exchange in international commerce—the exclusive, effective, and acceptable currency, universally and unhesitatingly received, without the authority of legal regulation, in coin or bullion, in discharge of all contracts; their efficacy and utility had also been uniformly realized to the satisfaction and advantage of every State which had the good sense to permit their free circulation.

Gold or silver—homogeneous, indestructible, and susceptible of infinite divisibility—nearly invariable in reference to the ordinary duration of contracts, and presenting, when tendered, the correct measure and real equivalent of the article bargained for—exhibiting properties peculiarly and eminently adapted to perform the functions of money—having circulated for ages among all civilized nations, with the universal concurrence of mankind, as money—equally effective in paying the daily wages of labor, as in the discharge of every variety and amount of obligation—it is not surprising that the wise framers of the constitution should have decided to continue and maintain gold and silver as the exclusive currency of these States. It is a tribute of respect justly due to the wisdom and judgment of those eminent patriots, in the opinion of your committee, to assert, that subsequent experience has fully illustrated and established the correctness and policy of their views in regard to money.

In 1791, after encountering very powerful opposition, an alteration was effected in the system which prevailed, by the establishment of the first Bank of the United States. The regulations then adopted were analogous to the usage of England.

The Bank of England, from its establishment in 1694, furnished, by the issue of notes, a considerable portion of the circulating medium of that country. It did not emit any notes of a less amount than £10 sterling, ($44 4-9ths,) until 1777, when the restriction was reduced to £5 sterling, ($22 2-9ths,) which limitation continued until the suspension of cash payments in 1797. The amount of Bank of England notes then in circulation was under nine millions of pounds; the previous issues for a long time varied from six to ten millions of pounds; the amount of gold was estimated at twenty-five to thirty millions of pounds sterling. It may therefore be concluded that, during the entire period in which a mixed currency circulated to the public satisfaction, the aggregate amount of national and private bank notes did not likely compose more than one-third part of the currency of Great Britain.

The first Bank of the United States, except at its commencement, issued no notes under ten dollars; and as its circulation at the end of twenty years did not much exceed the amount of its specie fund, about five millions of dollars, it may be inferred that, until 1811, gold and silver constituted an important portion of the circulating medium, and that the regulations of Congress, adopted in 1791, established the system contemplated by General Hamilton, that "bank circulation is desirable rather as an *auxiliary* to, than as a *substitute* for, that of the precious metals."§

* Report of committee of the Senate on Coins.

† Report of select committee on Gold, House of Representatives.

‡ Report of select committee of Senate on Coins.

§ General Hamilton's report on the Mint.

From the tenor of the report of that distinguished statesman, it is very evident, whatever may have been the effect upon the currency from the establishment of the bank, that he was sincerely desirous to increase the quantity of gold and silver, and to regulate the standard in these metals upon the least variable principle.

He states that "the positive and permanent increase or decrease of the precious metals in a country can hardly ever be a matter of indifference; it is evident that gold and silver may often be employed in procuring commodities abroad, which, in a circuitous commerce, replace the original fund with considerable addition. But it is not to be inferred, from the facility given to temporary exportation, that banks, which are so friendly to trade and industry, are, in their general tendency, inimical to the increase of the precious metals."*

The institution of banks has been highly advantageous to commerce, when judiciously regulated and administered; but there are various kinds of these institutions.

Banks of deposite, which were first introduced, are peculiarly appropriate to States of limited population and extent, carrying on extensive dealings with adjacent countries; coin of every description was received for safe keeping at its intrinsic value, and instantly credited as current and effective money transferable to order, or subject to be withdrawn at a very trivial charge. Commercial transactions were adjusted by the transfer of these deposites, and thus the trouble of counting money was saved, and all charge for coinage or wear of the precious metals was avoided.

Banks of discount, as well as deposite, were calculated to confer more important benefits: the capital invested being a satisfactory pledge for the security of deposites, unappropriated money was collected into the most favorable position for its distribution, in the form of discounts or loans, to meet the demands of commerce.

Banks of discount, deposite, and circulation, are of more recent origin, and possess more extensive powers, which might apparently be used so as to produce still greater advantages. In addition to the facilities stated, they were expected to dispense the further benefit of furnishing a currency, without any national expenditure worth notice, for its material, coinage, or wear; and susceptible of expansion or contraction at the pleasure of the issuers, in accordance with the fluctuating wants and general interests of the community.

Doctor Smith and Mr. Ricardo are considered to be the most able advocates in favor of paper currency. The views of these distinguished men are essentially the same; they allege the practicability of maintaining a paper circulation of equal value with the gold or silver which it is intended to represent. The one states that "a paper money consisting in bank notes issued by a people of undoubted credit, payable upon demand without any condition, and in fact always readily paid as soon as presented, is, in every respect, equal in value to gold and silver money, since gold and silver money can, at any time, be had for it. Whatever is either bought or sold for such paper, must necessarily be bought or sold as cheap as it could have been for gold and silver."† And Mr. Ricardo remarks that "a currency is in its most perfect state when it consists wholly of paper money, but of paper money of an equal value with the gold which it professes to represent."‡ Our system exemplifies the first proposition, and its accuracy in practice may be thereby tested. As to the correctness of the last principle, the committee entertain no doubt; but the omission of these authors is unpardonable in not communicating to the public the means by which bank directors, or treasury commissioners, were to ascertain the amount of gold which would circulate in the absence of the paper currency. Without presuming to declare that such knowledge is beyond human attainment, the committee may question the policy or advantage of asserting an apparently impracticable principle, when its annunciation tends to sanction the delusive views and regulations in regard to money which these eminent writers have elsewhere laboriously endeavored to dispel.

For the last fifteen years, our currency has been exclusively bank notes, (except for small change,) subject to redemption, on demand, with silver. This liability is a powerful restraint on issues during an adverse balance of payments with foreign nations; but, at all other times, it is nominal. Silver may be demanded and obtained for notes; but it is utterly impossible to retain a single dollar of coin in circulation, when the issues of notes of that denomination are permitted, which is the case in a great majority of the most wealthy, populous, and commercial States of the Union.

There is no example in history of a currency similar to that of the United States. It is bank notes issued without restraint, unless when a high rate of foreign exchange prevails.

This system was established through the agency of the Bank of the United States, in 1817. Two years afterwards, the bank was on the verge of failure; the pecuniary disasters of 1819 inflicted such serious injury and embarrassment, that the bank was unable, for several years, to accomplish one of the great objects of its establishment, that "of furnishing a sound circulating medium."

The committee think that its agency has co-operated very influentially in restoring and maintaining specie payments, but they are not prepared to admit that the existing currency, notwithstanding its great superiority to that of 1815 and 1816, is "not only sound and uniform in itself, and perfectly adapted to all the purposes of the Government and the community, but more sound and uniform than that possessed by any other country."§

The committee are of opinion that the present currency is inferior, in regard to safety and uniformity, to that used by the people of the United States from 1789 to 1811. The committee believe that gold or silver is the only sound, invariable, and perfect currency that human wisdom has yet devised. The policy or advantage of introducing, partially, a substitute for this costly medium of exchange, is altogether a distinct consideration, essentially different from the singular proposition that any substitute or representative can be equivalent or better than the article intended to be represented. The advantages alleged to appertain to the use of paper, as a substitute for money, are its economy, and its power quickly to expand to meet the demands of trade; in other words, its capability to furnish, promptly, great abundance of currency, at a price not deserving consideration.

Its early and powerful advocate, Dr. Smith, states that "the substitute of paper, in the room of gold and silver money, replaces a very expensive instrument of commerce with one much less costly."‖ The capital thus disengaged may be employed "in purchasing foreign goods for home consumption, such as wines, silks," &c.,‖ or it may be appropriated "to purchase an additional stock of materials, tools, and provisions, in order to maintain and employ an additional number of industrious people."‖ He admits, that "so far as it is employed in the first way, it promotes prodigality, and is in every respect hurtful to the society."‖ "So far as it is employed in the second way, it promotes industry, and although it increases the consumption of the society, it provides a permanent fund for supplying that consumption."‖

* General Hamilton's report on the Bank of U. States.

† Smith's Wealth of Nations.

‡ Ricardo on Political Economy.

§ Report of Finance Committee of Senate.

‖ Smith's Wealth of Nations.

The capital necessarily invested in a country using gold and silver money alone, is variously estimated at one-tenth, one-twentieth or one-thirtieth part of the annual income. It is, therefore, evident that the yearly revenue necessary to supply the wear of such durable metals, cannot amount to a tax of any importance to an industrious community.

The advantages here presented are uncertain and problematical; the chances, whether the relief from a tax nearly imperceptible in its effects upon individual income, will be converted into useful capital, or expended upon gratifications; yet, upon this uncertain basis, the national saving, from the use of bank notes in place of gold and silver, is calculated with the precision of a fixed interest upon funded debt. It has been remarked "that there have been, therefore, on that principle, (the substitution of paper coin, only forty millions of dollars saved and added to the productive capital of the country; this, at the rate of five per cent. a year, may be considered as equal to an additional annual national profit of two millions of dollars."*

Admitting the correctness of this estimate, its value will be truly ascertained when the evils and injuries inflicted by reactions in trade, attributable chiefly to inconsiderate bank issues, are enumerated and valued. The recent export of specie has swept away the delusive coloring given to the actual result of productive industry in 1829, 1830, and the early part of 1831. Real estate appreciated greatly, local stocks commanded unheard-of prices, warehouses and dwellings were improved and embellished, and money was so abundant that it could readily be obtained, to any amount, upon promissory notes. How changed is the general aspect of things within a few months? All our solid possessions and means of industry remain, land continues to be equally productive, labor is recompensed with its usual reward—the seasons have not been unfriendly.

Whence, then, this lamentable change in our affairs? Why has great scarcity of money, depreciation in the value of all commodities and of all property, great commercial distress, and absolute impossibility with many solvent persons to discharge their just debts, so speedily and grievously succeeded the gratifying and prosperous picture which was so lately presented?

The exportation of several millions of dollars is the reason generally assigned for this sad reverse. The cause stated seems inadequate and disproportioned to the important nature and magnitude of the effect produced. It is not possible to conceive how an individual, really prosperous, can be injured by the payment of his just debts at the time when due. Your committee cannot believe that the discharge of debts, contracted by a community of individuals pursuing their usual trade, can be embarrassing or injurious, if their apparent prosperity rested on a solid basis.

The committee think that national wealth is the consequence of the steady progress of productive industry, aided by judicious frugality: they believe that the operations of traders are acts of agency between the producers and consumers; that the average result of these transactions is an equitable exchange between the parties, yielding a reasonable compensation to the highly useful agent. When, therefore, the merchant importing or dealing in the necessary supplies for comsumption, realizes more than ordinary profit for a season, it is his interest to be circumspect the ensuing year: the late extra profit was realized at the expense of the producer or consumer, which cannot last; the intercourse between these two (though indirect) being in the nature of things, on an average, merely the exchange of commodities of equal value. Ardent and enterprising traders, stimulated with the seductive prospect of another golden harvest, use not only their capital and recent gains, but their credit also, in purchasing an increased quantity of goods. Competition raises prices, and the pressure of a heavy stock, with no increase of consumption, forces destructive sales, or realizes the certainty of heavy losses.

This is the course of trade in all countries, modified by their respective systems of money and of credit: the commercial affairs of that country are best regulated when credit is not too cheap or too easily obtained.

Protection to persons and property is sufficient to encourage every useful degree of industry and enterprise: extraordinary facilities and aid, in money or business transactions, produce inconsiderate overtrading, mortifying disappointments, pecuniary loss, and embarrassment.

In a commercial country, such as France, where the currency is metallic, the consequent restrictions upon circulating credit operate powerfully against overtrading; adverse balances are not frequent, and never of such magnitude as to occasion a heavy and distressing drain upon the currency; failures are comparatively few, and the circulating medium preserves that uniformity so essential to an equitable discharge of contracts, while its stability, under every vicissitude of commerce, change of Government, invasion, or revolution, maintains public confidence, effects every necessary transfer, and enables industry to proceed with its accustomed labor.

The committee cannot avoid soliciting attentive consideration to the experience of France since the year 1795. Bank notes are not issued under 500 francs, ($93.3,) and their circulation being chiefly confined to the large commercial transactions of Paris, they are not ordinary currency, but inland bills. The comparative exemption of France from the evil effects of overtrading, and from pecuniary distress and loss of confidence during political events, which would likely have produced a general suspension of payments in a country circumstanced like England, are advantages, appertaining to a gold and silver currency, of incalculable value.

The use of a substitute for the precious metals must be mainly attributable to mistaken views as to the nature of money, or as to the effect of a general scale of high prices.

Gold or silver money is an exceedingly useful and convenient instrument for facilitating barter, but it differs, essentially, from all other labor-saving machines.

If the quantity of machines or engines be increased, a proportionate increase of work may be executed; but an increase in the money of commerce and exchange only tends to render the instrument less portable or convenient.

The committee are convinced that every nation will be supplied with that portion of gold and silver essential to its wants, and that any measures which artificially produce a comparative redundance in a particular country, only serve to raise the price of all things, without benefit to any producer, or to the community.

The money or market price of commodities varies with the supply and demand, but the price must, on an average, amount to the labor and capital expended on production, or the article will cease to be produced; if the average market price much exceeds the real cost, the transition from other occupations is so easy that competition will speedily reduce extra profits to the ordinary level.

Money price, at any particular time and place, is a correct measure of market and relative value, and an easy mode of rating commodities; but it is surely immaterial to the producer whether a certain quantity of cotton or tobacco sells, on an average, for ten ounces of gold, or ten ounces of silver, (one-sixteenth part,) provided wheat, corn, clothing, and all other articles, are measured by the same scale. The annual income, or riches, of the

* Gallatin on currency.

United States is positively and relatively great, because it maintains, in a state of unexampled comfort, thirteen millions of inhabitants—this recompense to industry may perhaps be rated at eight hundred millions of dollars; if the mines of America had never been worked, it would not have been valued at one fourth, probably not one-eighth part of that amount; but the real intrinsic value of our income would certainly be the same as at present.

Although the quantity of necessary, useful, or gratifying products, is the true measure of wealth, and not their value in money, yet, as money is the just measure of commerce and exchange, and the standard by which contracts are fulfilled, it is of high importance that its quantity should be subject to little variation. If gold or silver, or both metals, circulated freely and exclusively in all countries, the relative difference in currencies would rarely fluctuate beyond the charges of transportation, say one to one and one-half per cent. But in states where paper is issued, though convertible into specie, the redundance of the circulation is confined by no ascertained limit, and its excess will be in proportion to the variety of payments which it effects.

In England, where notes under five pounds sterling are prohibited, the reaction from excess in issues will, perhaps, be as frequent, but they will be less prejudicial than we experience.

This inherent defect in convertible paper presents an objection almost insuperable to its use. Dr. Smith states that "the whole paper money, of every kind which can easily circulate in any country, never can exceed the value of gold and silver of which it supplies the place, or which (the commerce being supposed the same) would circulate there if there was no paper money."* Yet it is singular, with the conviction thus decidedly expressed that convertible paper cannot be issued to an excess, that he should subsequently use these remarks: "It were better, perhaps, that no bank notes were issued in any part of the kingdom for a smaller sum than five pounds;"* and that "the commerce and industry of the country, however, it must be acknowledged, though they may be somewhat augmented, cannot be altogether so secure, when they are thus, as it were, suspended upon the Dædalian wings of paper money, as when they travel about upon the solid ground of gold and silver."*

General Hamilton, in adverting to the influence of agriculture and manufactures on the "increase or decrease of gold and silver," has remarked, "if this be true, the inference seems to be that well-constituted banks favor the increase of the precious metals."†

These intelligent and sagacious theorists appear to have been unacquainted with two practical facts: 1st, that gold or silver will be repulsed from all the channels of circulation in which the denominations of the notes will admit their use; and 2d, that the liability of a currency exclusively of paper to be redeemed in coin, is entirely inoperative until an unfavorable balance in foreign trade creates a demand for specie for exportation; this effect rarely occurs in less than three or four years, during which time banks are unrestrained in their issues, unless their own ideas of prudence should be sufficiently powerful to resist the temptation of making profitable loans.

It is correctly remarked, that "no certain estimate can ever be formed of the quantity of money required to conduct the business of any country; this quantity being, in all cases, determined by the value of money itself, the services it has to perform, and the devices used for economizing its employment."‡

The existence of a legal right to convert bank notes into coin, is specious and imposing, inviting the judgment to conclude that it must be an effective restraint upon overissues: but the authority which we possess to demand coin is essentially different in its effects from an indispensable necessity constantly and daily to require coin. Where, for example, as in England, the emission of notes under £5 sterling ($22 2-9ths) is prohibited, there must be an unceasing and active demand for coin to make small payments and purchases, in the aggregate, of large amount. Banks thus circumstanced may, nevertheless, at times increase, in some degree, their circulation; but the issue of notes of large denomination, to an amount exceeding that of the gold or silver which would circulate if there were no notes, inevitably raises the prices of every thing, and this general rise of prices necessarily increases the demand for coin in the channels where notes cannot circulate, and effectually prevents such excessive issues as we experience.

When banks enjoy public confidence, and their notes are adapted to discharge every object of expenditure, the occasions will be very rare when coin will be demanded. In such a state of things, the occurrence of a foreign demand for specie will be the *only* operative restraint upon issues.

Mr. Say has judiciously observed that "one method of checking the immoderate use of notes is, to limit them to a fixed and high denomination of value, so as to make them adapted to the circulation of goods from one merchant to another, but inconvenient for the circulation between the merchant and the consumer."§

The consequence of the prevailing system is, that the currency of the United States is bank notes, to the exclusion of the precious metals—a silver dollar, the money unit, has ceased to circulate; and this important change in the circulation has no doubt caused the attention of Congress and of the public to be so frequently called to the state of the currency.

The committee think that the exclusion of gold and silver coins from circulation is a serious defect, which ought not to be tolerated, and which should be speedily remedied.

There is no example on record of the successful issue of a paper currency, and our experiment has been too short and dubious to prove its suitableness as a permanent regulation.

Even in England, where their lowest issue of notes, at any time, was £1 sterling, ($4.56,) and for several years past not less than £5 sterling, the absence of an abundant supply of gold coin was deemed to be such an essential defect in their currency, that the prime minister, Lord Liverpool, forcibly remarked: "Looking at the example of Lancashire and London, all the difficulties on the subject completely vanished. Why did gold circulate there? Because they had no paper currency. Why was there no gold in other places? Because they had a paper currency. No fact had been more clearly established by experience on the subject, than this: that gold and paper never could be brought to circulate together. No paper would circulate where gold did; and no gold where paper circulated. There could be no common issues of both. This, he repeated, was clearly proved by all experience. The object of every description of currency should be to make the value of property as steady and as little variable as possible."

Our present system is at variance with established and admitted principles in regard to money; with the views of the generality of the most approved writers; with the intentions of the wise founders of the constitution, and with the aim and object of the two Secretaries of the Treasury, who were the prominent, able, and influential advisers of Congress upon the subject of currency.

* Smith's Wealth of Nations.

† General Hamilton's Report.

‡ McCulloch on Political Economy.

§ Say on Political Economy.

General Hamilton, in recommending the establishment of the first Bank of the United States, confidently anticipated (as has been already shown) that its operations would have a tendency to increase the quantity of the precious metals: no one could be more thoroughly convinced of the high importance of a sound currency, of equal uniformity with the standard of value, which was regulated in gold and silver. He would not have recommended the use of bank notes even "as an auxiliary to the precious metals," if he had entertained the slightest apprehension that a greater amount of notes would be circulated than the gold or silver which they displaced. Upon recommending regulations for the standard of value, his anxiety to secure all attainable *invariability* is evinced in his inclination to attach it to *gold* alone, alleging that "the inducement to such a preference is to render the unit as little variable as possible; because on this depends the steady value of all contracts, and, in a certain sense, of all other property."*

These objects of great national interest could not have been accomplished, unless the money unit, or its exact representative, was the measure and medium used in the discharge of all payments; that is to say, the mixed currency of notes and coin must have been contemplated to be at all times, in its aggregate amount, precisely similar to the amount of currency which would circulate if gold and silver coin were used exclusively; the regulation of the money unit, in any other sense, would have been useless, and could not possibly have involved, as he states, "a great variety of considerations, intricate, nice, and important. The general state of debtor and creditor; all the relations and consequences of price; the essential interests of trade and industry; the value of all property; the whole income, both of the state and of individuals, are liable to be sensibly influenced, beneficially or otherwise, by the judicious or injudicious regulation of this interesting object."*

The views maintained by the Secretary of the Treasury, (Mr. Dallas,) when he recommended the establishment of the present National Bank, were of similar character. Adverting to the power of Congress, he states that, "under the constitutional authority, the money of the United States has been established by law, consisting of coins made with gold, silver, or copper;"† but it is within the scope of a wise policy to create additional demands for coin, and, in that way, to multiply the inducements to import and retain the metals of which it is composed. For instance, the excessive issue of bank paper has usurped the place of the national money, and, under such circumstances, gold and silver will always continue to be treated as an article of merchandise: but it is hoped that the issue of bank paper will be soon reduced to its just share in the circulating medium of the country; and, consequently, that the coin of the United States will resume its legitimate capacity and character;" and, again: "It is nevertheless with the State banks that the measures for restoring the national currency of gold and silver must originate; for, until their issues of paper be reduced their specie capitals be reinstated, and their specie operations be commenced, there will be neither room, nor employment, nor safety, for the introduction of the precious metals." And he concludes a statement of the advantages to be derived by instituting the National Bank in these words: "And acting upon a compound capital, partly of stock and partly of gold and silver, the National Bank will be the ready instrument to enhance the value of the public securities, and to restore the currency of the national coin."

Your committee cannot doubt but the evidence here adduced, and every act of the General Government since its adoption, will clearly and conclusively establish that its founders, and all its successive administrators, uniformly contemplated and intended that the currency of the United States should be composed exclusively or chiefly of gold and silver coin: the constitutional expression is clear and distinct. At the first introduction of bank notes, it is expressly declared that they were intended to be used only as "an auxiliary to the precious metals," and the act of 1816 was recommended with an avowed intention "to restore the national currency." Your committee believe that the existing circulating medium is not "the national currency" recommended by the Secretary of the Treasury, or that which Congress contemplated "to restore."

Your committee have presumed to dissent from the generally received and very plausible opinion, sanctioned by eminent authorities, that "the whole paper money, if (convertible) of every kind which can easily circulate in any country, never can exceed the value of the gold and silver of which it supplies the place." And as the correctness of these opposite opinions has an important bearing upon the subject under discussion, they beg leave to refer to some authentic statements in regard to circulation, in corroboration of their views.

It is stated, by highly respectable authority, that the amounts of notes in circulation, issued by the banks here enumerated, about the respective periods indicated, were as follows:

	1830.	1832.	Relative increase of circulation in two years.
Mass.	$4,730,000	$7,700,000	65 per cent.
R. Island,	670,000	1,340,000	100 "
N. York,‡	10,000,000	14,100,000	40 "
Penn.	7,300,000	8,760,000	20 "
B. U. S.	15,300,000	24,600,000	67 "
	$38,000,000	$56,500,000	

Aggregate relative increase of circulation nearly fifty per cent.

Relative amounts of specie on hand.

	1830.	Proportion of specie to bank notes.	1832.	Proportion of specie to bank notes.
Mass.	$990,000	1 *a* 5	930,000	1 *a* 8
R. Island,	340,000	1 *a* 2	430,000	1 *a* 3
N. York,‡	2,000,000	1 *a* 5	2,000,000	1 *a* 7
Penn.	2,410,000	1 *a* 3	2,600,000	1 *a* 3½
B. U. S.	7,600,000	1 *a* 2	7,040,000	1 *a* 3½
	$13,340,000		$13,000,000	

Aggregate proportion of specie to bank notes in 1830, 1 to 2 6-7ths.

Aggregate proportion of specie to bank notes in 1832, 1 to 4½.

These banks furnish considerably more than one-half of the entire paper currency; and, as the operations of all moneyed institutions are generally regulated by, or in conformity with, the course of business pursued by the most powerful and important establishments, it is a fair and reasonable conclusion that all other banks have been equally liberal in their contributions to the currency. As no notice is taken of the amount of notes held by other banks, it is supposed that this statement may exceed, by

* General Hamilton on the Mint.

† Dallas's Report.

‡ Twelve New York banks make no return to the Legislature, and, therefore, these amounts are estimated from the best data that could be procured.

New York Bank Commissioners' report.

Gallatin on Currency.

United States Bank statements.

one-fifth or one-sixth part, the true circulation; but, as a reduction of that nature would operate with correspondent effect at each period, it would not materially influence the relative increase of the currency, which is the important consideration.

The committee, therefore, feel authorized to infer that there has been an increase in the currency to the great extent of forty or fifty per cent. within the short period of two years. The amount of notes circulating in 1830 was estimated by Mr. Gallatin at sixty-two millions of dollars; if subsequent issues by the banks have added forty or fifty per cent., equal to twenty-five or thirty millions of dollars, to the previous amount of currency, it is very evident that this increased amount must greatly exceed the quantity "of the gold and silver of which it supplies the place."

If the currency had been metallic, such an increase to it would have been impossible, as it would have required a supply of gold and silver nearly equal to the entire product of the mines of the world during that period—equivalent to more than one-half of the annual export of our domestic productions: these extra issues have not added, in any degree, to the real and effective value of the currency of 1830, while the banks have thereby profited, in interest on additional loans, to the extent of one and a half or two millions of dollars yearly, at the expense of the community.

The value of gold and silver money depends upon its proportion to the quantity of exchangeable commodities: and whatever may be the value of these metals, it is nearly invariable, because the annual produce of the mines, whether small or great, is trivial in comparison with the vast accumulation of ages.

It has been already shown that the variation in the relative value of the currency in states where the precious metals alone circulate, can rarely, if ever, exceed the charges upon their transportation: peculiar regulations, such as the seiniorage upon coin in France, and the rejection of silver as money in England, would favor a greater appreciation of our currency, if composed of silver; but these modifications do not affect the general principle that there cannot be any considerable accumulation, relatively, of real money in any country: a transient increase will arise from a favorable balance in trade; but gold and silver thus received will speedily be sent abroad to buy cheap goods, or, by raising prices, it will soon create an adverse balance, and be exported.

It is not so with paper currency: whether convertible or not, it possesses no intrinsic value, and consequently, it is not current or exchangeable in foreign trade.

In dull and unprofitable times, banks cannot extend their issues so as materially to affect the value of the currency; but when business has been so successful for a time as to occasion an eager desire to speculate in merchandise and real estate, or to make investments in various projects for productive or public improvement, extensive discounts and loans will be demanded, which the banks cheerfully furnish to any extent, as it can be done without cost, and to their great profit. The appreciated value of all things, caused by such speculations, requires a proportionate increase of the circulating medium, which essentially degrades the value of the currency, until a violent reaction restores it to the proper equilibrium, inflicting, in the operation, heavy and destructive losses, and much real suffering, and impeding, temporarily, the ordinary and salutary course of trade and industry.

The committee are convinced that the banks, during the last two years, have contributed greatly to inconsiderate overtrading, which has produced the present pecuniary distress and consequent depression of prices; injudicious discounts and loans have inflicted serious injury upon the circumstances of the borrowers, and the facility thus given to an increase of notes has caused excessive issues, and great depreciation of the currency.

The annual income of the United States being composed chiefly of raw products, it is not possible that the increase in its quantity, and, consequently, in the legitimate demand for money, can much exceed the regular increase of the population.

The fact that a bank note of one dollar, or of one hundred dollars, can now be converted into coin with equal facility as in 1830, does not establish that the currency, at these respective periods, was of the same value.

If it be alleged that the specie of these banks, which amounted, at both periods, to thirteen millions of dollars, was an abundant and adequate fund, as effective to meet every demand for the redemption with coin of notes, which amount at present to fifty-six millions of dollars, as it was in 1830, when the circulation of the same banks was only thirty-eight millions of dollars, it merely demonstrates the correctness of the opinion advanced, that the convertibility of the currency, in ordinary times, is nominal, and does not operate as any restraint whatever upon over-issues.

The committee cannot doubt, from the details exhibited of the excessive circulation of these important banks, that the currency has been suddenly, injudiciously, and injuriously degraded, to the prejudice of pending contracts, and to the subversion of the intrinsic value of the money unit, "upon which the security and steady value of property essentially depend."

It being a generally admitted and well-established principle, that the value of money depends upon its relative quantity to that of exchangeable commodities, the committee cannot resist the inference that the currency has greatly depreciated since 1830, nearly in an inverse ratio with the increase of its aggregate amount.

Mr. Gallatin, in his able essay on currency and banks, has observed, "where a paper has been substituted to a metallic currency, any similar considerable increase in its amount must cause a corresponding depreciation in its value, if the aggregate value of the objects annually paid for in currency remains the same."

"If fifty-five millions of ounces of pure silver, at its present value as compared with all other commodities, are sufficient on an average to effect all the payments made in the United States in currency the whole quantity of a paper currency substituted to silver, cannot, on an average, whatever its nominal amount may be, exceed in value fifty-five millions of ounces of pure silver, or about seventy-one millions of dollars in our present coin; whether such currency amounted nominally to seventy-one, one hundred, or one hundred and forty millions of dollars, its value would not, on an average, exceed that of the seventy-one millions of silver dollars wanted to effect the necessary payments; and the paper money would generally depreciate, at least in proportion to the excess of its nominal amount, beyond seventy-one millions of silver dollars."

And it has been wisely and judiciously maintained by one of the highly respectable authorities already adverted to, that "no proposition is better established than that the value of money, whether it consists of specie or paper, is depreciated in exact proportion to the increase of its quantity, in any given state of the demand for it. If, for example, the banks, in 1816, doubled the quantity of the circulating medium by their excessive issues, they produced a general degradation of the entire mass of the currency, including gold and silver, proportioned to the redundancy of the issues, and wholly independent of the relative depreciation of bank paper at different places, as compared with specie. The nominal money price of every article was, of course, one hundred per cent. higher than it would have been, but for the duplication of the quantity of the circulating medium. Money is nothing more nor less than the measure by which the relative value of all articles of merchandise is ascertained. If, when the circulating medium is fifty millions, an arti-

cle should cost one dollar, it would certainly cost two, if, without any increase of the uses of a circulating medium, its quantity should be increased to one hundred millions. This rise in the price of commodities, or depreciation in the value of money, as compared with them, would not be owing to the want of credit in the bank bills of which the currency happened to be composed. It would exist though these bills were of undoubted credit, and convertible into specie at the pleasure of the holder, and would result simply from the redundancy of their quantity."*

Upon mature deliberation, the committee are of opinion that the present system of circulation is destructive to the uniformity of the standard of value, occasioning it to vary in a ratio with a very variable currency, causing it to fluctuate with the changeable and interested policy of the banks, instead of being regulated by the deliberate and impartial judgment of Congress; they think that it encourages inconsiderate speculations, facilitates overtrading, interferes with the just fulfilment of contracts, and operates, according to the uncertain course of events, to the prejudice of debtors or of creditors.

A continuation of national prosperity is highly interesting and gratifying, but it is too justly attributable to the skill, industry, and capital of an active and intelligent people, to be relied upon as an argument, or exemplification of the merits of a system at variance with general principles and approved opinions, with the intentions of Congress, and with our former long-established usage.

The committee conceive it to be justly and sensibly remarked, that over-issues of bank paper "always lead to overtrading, ruinous to individuals, embarrassing to some of the moneyed institutions, and, thereby, crippling others, and may so overburden the whole as to render the enforcement of specie payments utterly impossible:" "nothing (in money matters) could be more disastrous than the necessity of suspending specie payments, which is always attended by excessive overissues of paper, and the consequent fluctuation in value of every kind of property." While the committee thus assent to the correctness of these opinions, they sincerely hope "that the pressure may pass over without deranging the currency, or causing a ruinous depression of prices."†

The essential importance of wise regulations, in regard to money, in all nations, but especially in those distinguished by industry and commerce, is asserted or admitted by all eminent and respected authorities.

Circumstances having now restored to Congress the ability to exercise its judgment, at pleasure, in the use of this sovereign and specially delegated power, your committee are duly impressed with the momentous duty with which they have been charged: they have devoted to the investigation of this interesting department of national policy much labor and research, and the most attentive and deliberate consideration; and, whatever estimate may be attached to their views or conclusions, they are conscious of having exercised their judgment without partiality or prejudice, and with a single eye to the public welfare.

Having adopted the report of the select committee, of last session, upon gold and silver, they will not recapitulate the views there recorded.

Your committee are convinced that gold or silver coin constitutes the only sound and invariable currency—the only effective money under all contingencies and emergencies, and the cheapest circulating medium, if the injurious effects of substitutes upon trade, industry, and property, in adverse periods, be fully and justly estimated.

The committee do not recommend a return to the money system of the wise framers of the constitution, because they are impressed with the expediency and justice of duly respecting opposite opinions and depending interests.

The committee believe that there is a great error in supposing that an increase of the circulating medium adds any thing to the real capital of the nation, yet they think that bank notes may circulate "as an auxiliary to that of the precious metals," with security and effect, if they are restricted by their denomination to effect large payments.

They are satisfied that none of the laws of Congress ever contemplated that the currency was to be composed, as at present, exclusively of bank notes; it is a new system, justly denominated "an experiment," and they cannot doubt but that it ought to be made to conform effectually to the spirit and letter of these laws."‡

The committee consider that the high authority (interdicted to the States) "to coin money and regulate the value thereof" by the standard of gold or silver, is rendered nugatory and inoperate under the present system. And they respectfully suggest that the sovereign power, which involves "the general state of debtor and creditor, all the relations and consequences of price, the essential interests of trade and industry, and the value of all property," is so interesting and important to the general welfare, that Congress should permanently possess it, or especially reserve the right at all times to alter any statute in regard to currency.

Your committee earnestly recommend the expediency and utility (when a faithful regard to vested rights will admit its exercise) of adopting efficient measures "to restore the currency of the national coin," as they are convinced of the correctness of the opinion that "the public interest of the country is, that we should have coins of gold as well as coins of silver."

They coincide in the accuracy of the observation that "it is the peculiarity of our moneyed system, that, in many parts of the country, the precious metals are excluded from the minor channels of circulation by a small paper currency; in consequence of which, the greater portion of these metals is accumulated in masses at the points of most convenient exportation. Now, with a widely diffused metallic currency, the occasional demands for exportation are more gradually felt; the portion exported bearing a small relation to the whole, occasions less inconvenience, and the excesses of exportation can be more readily corrected without injury:"‡ and they believe that in proportion to the amount of gold and silver coin infused into the currency, it will, in that ratio, be the more stable, safe, and uniform, as a measure of value, and medium of exchange and of payments.

The committee are entirely convinced that gold and silver coins cannot be maintained permanently in circulation, unless the issue of bank notes of one to ten dollars be prohibited.

They are of opinion that the views expressed with regard to foreign silver are equally appropriate, as a beneficial commercial regulation, in reference to such gold coins as circulate in general commerce.

February 22, 1831.

Mr. C. P. White, from the Select Committee on Coins, to whom was referred the bill from the Senate entitled "An act concerning the gold coins of the United States," made the following report:

That the subject presented to them involves in its consequences one of the highest attributes of sovereignty, the delicate relations which subsist between debtor and creditor, the important interests of industry, and, ultimately, the value of all property; and emanating from a source entitled to great respect, they have given to it the

* Report of Committee of Ways and Means.

† New York Bank Commissioners' Report.

‡ Triennial Report Bank United States, 1832.

most mature examination; but finding themselves obliged to dissent from the conclusions at which the Senate have arrived, they now submit the result of their inquiry to the consideration of the House.

The bill from the Senate proposes to alter the standard which has regulated the measure of contracts for nearly forty years. The change intended to be effected is to raise the relative value of gold from 1 for 15 to 1 for 15.9 of silver, equivalent to an alteration of six per centum in the existing standard.

It was judiciously remarked by the distinguished and enlightened statesman who presided over the Treasury Department when the present regulation was adopted by Congress, that "there is scarcely any point in the economy of national affairs, of greater moment than the uniform preservation of the intrinsic value of the money unit: on this the security and steady value of property essentially depend."

The committee, duly impressed with the wisdom of that sentiment, feel it incumbent on them to examine, with care and deliberation, the reasons adduced in support of such an important alteration in a regulation of great public interest.

It is alleged in the report of the committee of the Senate—

1st. That "this proportion (1 to 15) was too low a valuation of gold in the year 1792, and much too low a valuation of gold in relation to silver, at this time."

2d. That "during the last three hundred years, gold has, with some temporary exceptions, been gradually advancing in value. During the last twenty years, the enhancement of gold, in respect to silver, has been quite as great as it had ever before been during any equal period; and gold still continues to rise."

3d. That "the general course of our exchanges with Europe is against us; and when remittances cannot be advantageously made by bills, gold is sent to Europe, and especially to Great Britain, so long as gold is not evidently too dear in this country, in comparison with silver. But, in order that both gold and silver should circulate as money, it is necessary that demands for exportation should fall upon both metals, that when a demand for exportation occurs, it should, in general, be as profitable to export one of them as the other; and the relative valuation which will ensure this object is that which exists when both metals are, or may be, exported with equal profit."

4th. That "much more of the two metals is now coined upon the basis that gold is in value to silver as 16 to 1, than according to any other proportion. If it is expedient to conform our ratio to the existing proportion of any other country, it must be expedient to adopt that proportion which prevails most widely, and the ratio of 16 to 1 is now far the most extensive example. A rule so extensive is entitled to respect; but the practical operation of the rule is much more instructive, since it shows that this relative valuation of the two metals secures their concurrent circulation in coins in a very large part of the world.

5th. That "our public coinage of gold is now wholly without any public benefit. If we will not rectify the legal proportion between the coins of the two metals, we ought to abolish the coinage of gold, save a useless expense, and leave gold to be treated like other metals not coined as money."

The recommendations suggested, and the advantages anticipated, are—

1st. That our "system of money established in the year 1792 fully adopts the principle that it is expedient to coin and use both metals as money; and such has always been the opinion of the people of the United States."

2d. That "each of the two metals is peculiarly convenient for purposes to which the other is not well adapted. Silver is divisible into pieces of small weight and small value, and is convenient for payments of moderate amount, but is very inconvenient when large sums are paid or transported. And these different advantages cannot be enjoyed without the use of both metals."

3d. "Where the circulating coins are both gold and silver, paper money is less used than it is where all the coins are of silver; and the currency of gold coins in our country will tend to repress this constant tendency to excess of paper money. Our money now in use is bank notes and silver. Bank notes are pressed into every channel of circulation; though no man is legally bound to receive them, they are generally received. So great is the amount of bank notes in circulation, so widely are those notes diffused through our extensive country, and so much is silver banished from circulation, that the option to demand silver is not within the reach of the great body of the people."

"The creditor, and especially the poor man, who can neither wait for payment nor go to a bank to demand silver, accepts the bank notes which are offered to him, not because he prefers them to silver, but, in a multitude of cases, because he is, in effect, constrained to accept them or nothing. One of many causes which swell this torrent, and impose upon the people a species of necessity to use paper money, is the want of gold coins. The end of coining the two metals is, that they may circulate together; that every person who has coins of either silver or gold may easily exchange them for coins of the other metal, and that the people may enjoy the advantage of using either species of coins, according to convenience or pleasure."

4th. "Bank notes are frequently received in preference to silver, when gold coins would be more convenient or desirable than bank notes. In such cases, gold would be used if it could be procured, and it should be attainable. To refuse to coin gold for the sake of paper money, or because paper money occupies a place which gold would fill, would be a mischievous error. A bad state of the coins is a great evil; but when such a state of the coins is continued for the purpose of promoting the use of paper money, the end is pernicious, and the means are an abuse of power. Our banks have the right to pay their notes in silver, and they ought not also to enjoy the advantage of an entire banishment of gold coins from the United States. There will surely be sufficient scope for the circulation of bank notes, when the coins which they do not expel from use shall consist partly of both metals; and if it is the interest of the banks that we should have no gold coins, the public interest of the country is, that we should have coins of gold as well as coins of silver."

The regulation proposed will produce, if adopted, a very important alteration in the existing standard of value; and as it has apparently originated from the views now detailed, which comprise a full consideration of the monetary system of the United States, the committee feel reluctantly compelled to undertake the investigation of an important, difficult, and intricate subject, upon which the most acute and enlightened intellects have disagreed.

This examination will necessarily involve the consideration of general principles; the standard of value; the practice of commercial nations, and a particular reference to the currency of the United States; which various and perplexing questions the committee will endeavor to discuss with all practicable brevity.

Gold and silver are the money of commerce—the merchandise for which all other commodities are freely exchanged by the general consent of mankind. They are the measure of value, and are universally received as the intrinsic equivalent in all exchanges. These precious metals were adopted, and are maintained, as the currency or money of the world, from their being less variable than other metals, and homogeneous in respect to durability and divisibility.

They are, however, exposed to two important variations.

1st. In reference to other commodities; if the mines become more or less productive; or from any cause that will alter the relative proportions which the gold and silver, used as money, bear to that of the aggregate amount, or real value of exchangeable commodities, money price being regulated by these respective proportions; and

2d. The value of gold in respect to silver is very fluctuating.

Their relative values may vary with the amount of supply furnished by the mines respectively. It will change with the variations in the relative amount of labor expended on the production of these metals. If the quantity produced be appropriated to manufacturing purposes, and as currency, in different relative proportions, at different periods, an alteration in value will ensue; a great diminution or an extensive increase of demand for either of the precious metals, arising from a change in the usual course of trade, or from an alteration in the circulating medium of a wealthy nation, will produce an important change in their relative value, whether silver be affected, as instanced in the Asiatic trade, or gold, as we have sensibly experienced in our intercourse with England.

Silver, in reference to silver, is unchangeable, and equivalent to the like quantity of fine metal, in all times, and in all countries. It is, besides, universally current; and it is the instrument principally used as the money of commerce.

Gold possesses the same peculiar properties, although it is not so extensively used in effecting exchanges. Either of them are received freely as the money of the world; and each, in a state of purity, preserves its identity and immutability.

Gold and silver, used as a common standard, are, in the nature of things, subject to various and frequent fluctuations; while the regulation of the standard of value, in either metal, is liable to variation only in reference to commodities.

Governments and political economists all agree in opinion as to the necessity or utility of a uniform measure. They, nevertheless, differ as to the expediency of regulating the standard of value in one or in both metals, although the nearer approach to invariableness, in the selection of one metal, is obvious and incontrovertible.

The bill under consideration contemplates such a regulation of the standard as will not only obviate prejudicial variations, but secure such "concurrent circulation in coins" of both metals, "that every person, who has coins of either silver or gold, may easily exchange them for coins of the other metal, and that the people may enjoy the advantage of using either species of coins, according to convenience or pleasure."

The committee would have the greatest pleasure in aiding, with their most zealous efforts, in the establishment of any regulations calculated to contribute to the convenience or gratification of the community. Entertaining, however, serious doubts of the practicability of securing the desirable objects contemplated, through the medium of legislative enactments, they think it expedient, as an evidence of their sincere desire to effect a satisfactory and impartial investigation, to note, briefly, the sentiments of some of the most distinguished and eminent writers.

General Hamilton, who was the founder of our present system, distinctly recognised the correctness of the position, that the single standard is the least variable measure, and he was inclined to select gold.

He states that the "inducement to such a preference (one metal) is to render the unit as little variable as possible, because on this depends the steady value of all contracts, and, in a certain sense, of all other property; and it is truly observed, that if the unit belong indiscriminately to both the metals, it is subject to all the fluctuations that happen in the relative value which they bear to each other; but the same reason would lead to annexing it to that particular one which is itself the least liable to variation, if there be, in this respect, any discernible difference between the two."

"Gold may, perhaps, in certain senses, be said to have greater stability than silver, as being of superior value. Less liberties have been taken with it, in the regulations of other countries." He was finally of opinion that, "upon the whole, it seems to be most advisable, as has been observed, not to attach the unit exclusively to either of the metals, because this cannot be done effectively without destroying the office and character of one of them as money, and reducing it to the situation of a mere merchandise, which accordingly, at different times, has been proposed from different and very respectable quarters, but which would probably be a greater evil than occasional variations in the unit, from the fluctuations in the relative value of the metals, especially if care be taken to regulate the proportions between them with an eye to the average commercial value. To annul the use of either of the metals is to abridge the quantity of circulating medium, and is liable to all the objections which arise from the comparison of the benefits of a full with the evils of a scanty circulation."

Sir William Petty, in his posthumous work, published in 1691, is stated to be the first who suggested "that the coin which was to be the principal measure of property ought to be made of one metal only. Money is understood to be the uniform measure and rule for the value of all commodities; that one of the two precious metals is only a fit matter for money; and, as matters now stand, silver is the matter of money."

That profound philosopher, Mr. Locke, thus expresses himself: "I have spoken of silver coin alone, because that makes the money of account and measure of trade all through the world; for all contracts are, I think, every where made, and accounts kept, in silver. I am sure they are so in England and in the neighboring countries. Silver, therefore, and silver alone, is the measure of commerce. Two metals, gold and silver, cannot be the measure of commerce both together in any country, because the measure of commerce must be perpetually the same, invariable, and keeping the same proportion of value in all its parts. But so only one metal does, or can do, to itself. So silver is to silver, and gold to gold; but gold and silver change their value one to another; for, supposing them to be in value as sixteen to one now, perhaps the next month they may be as fifteen and three-fourths, or fifteen and seven-eighths to one; and one may as well make a measure to be used as a yard, whose parts lengthen and shorten, as a measure of trade of materials that have not always a settled invariable measure to one another. One metal, therefore, alone, can be the money of account and contract in any country. The fittest for this use, of all others, is silver. Gold, though not the money of the world, and the measure of commerce, nor fit to be so, may, and ought to be coined, to ascertain its fineness and weight, and such coin may safely have a price as well as a stamp set upon it by public authority, so the value set be under the market price."

Lord Liverpool, who was Master of the Mint in England, and whose system of money is now in practical operation in that country, thus remarks: "Experience has proved that, when coins of two metals are made legal tenders at given rates, those who have any payments to make will prefer to discharge the debt or obligation, by paying in that coin which is overrated; and in this manner gold, being overrated, became the practical currency of England. In the reign of King William, by proclamation, gold guineas, worth but 20*s.* 8*d*, were made current at 21*s.*, which being 4*d.* more, or 1 19-31 per centum too high, made gold the principal measure or tender in

payments." He was of opinion "that the money or coins of any country, which are to be the measure of property, can be made of one metal only;" and that gold was the fittest metal for a rich country like England. He proposed that "the new silver coins shall not be a legal tender for any sum exceeding the nominal value of the largest piece of gold coin in currency. This is the highest state of perfection to which any system of coinage can, in my opinion, be brought." He considered it necessary to exact a heavy seiniorage on silver coin, to secure its permanency in circulation; and maintained that such an overvaluation would not prejudice prices. "When the silver coins were the principal measure of property, and were greatly defective, the price of all commodities rose in proportion; but since the gold coins are become the principal measure of property, though our silver coins are on an average as defective as they were before, (about one-third,) the price of commodities, even when purchased with silver coins, has not risen on account of the defect of these silver coins. The present defective silver coins continue to be paid and received at their nominal value, and according to the rate at which they can be exchanged for our gold coins; sometimes, when they are wanted for particular purposes, they are exchanged even at a premium above their nominal value."

He thought that prices of commodities were "influenced by a defect in that sort of coin only which is the principal measure of property, and in which our balances to foreign countries are regulated and paid."

Mr. Ricardo, who attained well-merited celebrity, in adverting to the English currency, observes: "It appears, then, that, whilst each of the two metals was equally a legal tender for debts of any amount, we were subject to a constant change in the principal standard measure of value. It would sometimes be gold, sometimes silver, depending entirely on the variations in the relative value of the two metals; and, at such times, the metal which was not the standard would be melted and withdrawn from circulation, as its value would be greater in bullion than in coin. This was an inconvenience which it was highly desirable should be remedied; but so slow is the progress of improvement, that, although it had been unanswerably demonstrated by Mr. Locke, and had been noticed by all writers on the subject of money since his day, a better system was never adopted till the last session of Parliament, when it was enacted that gold only should be a legal tender for any sum exceeding 40*s*."

A highly respectable authority, Mr. Gallatin, in his able letter to the Secretary of the Treasury, maintains the superiority of the double standard, and the practicability of keeping both metals in circulation. He instances France as the country "which affords the best and most easy means to ascertain the fact, as it is far the most wealthy country in which both gold and silver coins circulate simultaneously. During the last thirteen years, there has never been a premium on silver coins, and there has almost always been one on gold coins; but it is very rarely, and only for very short periods, that this premium on gold coins has ever fallen below one-fifth or exceeded four-fifths per cent., and the average is about one-half rather below than above it. The relative value of gold to silver bullion is, therefore, fixed at the rate of 3091–197, nearly equal to 15.69 to 1. Each metal is brought to the mint in greater or less quantities respectively, according to the fluctuations in their relative market value. But what proves that this ratio does not essentially differ from the true average market relative value is, that the mint has been abundantly supplied with both for the last twenty-five years; the coinage of France being far greater than that of any other country.

"The present rate (of our gold standard) was the result of information, clearly incorrect, respecting the then relative value of gold and silver in Europe, which was represented as being at the rate of less than 15 to 1, when it was, in fact, 15.5 to 15.6 to 1. If gold coins are raised by law to their true value, they will not be exported so long as the exchange on London is not above one and a half per cent. above the true par, or about eight and a half per cent. nominal, as now calculated. Whenever the exchange is above that rate, there is no means to prevent the exportation; and, as the general tendency of our exchanges with Europe is against us, this affords a reason why, in fixing the relative value of the two metals, gold may be a little overrated beyond the ratio deduced from the average premium on French gold coins in France. But this should be done cautiously, as there is always danger in going beyond what the well-ascertained facts will warrant." Adverting to Spanish American coins, he observes, in respect to the various rates of premium on doubloons: "This affords no criterion whatever of the relative value of the two metals, as it is exclusively due to the varying demand for the Havana and South American markets, where, by internal regulations, the doubloon is rated never less than $16, and generally at $17. This arbitrary order drives, of course, silver from the market; and, without raising, actually, gold to that rate, has, nevertheless, a considerable effect on the price of that particular coin. As there is not in nature any permanent standard of value, it has been objected to the simultaneous circulation of the two metals as a legal tender, that, in addition to the fluctuations in the price of either gold or silver, if only one of the two was made the sole circulating medium, the fluctuations in their relative value increase the uncertainty of the standard. Great Britain, till the year 1797, when the suspension of cash payments took place, and all other nations, to this day, have used the two metals simultaneously, without any practical injury, and to the great advantage of the community, though, in many instances, sufficient care had not been taken to assimilate the legal to the average market value of the two metals—a fact so notorious, so universal, and so constant, is sufficient to prove that the objection, though the abstract reasoning on which it is founded is correct, can have no weight in practice."

In respect to the opinion that the English demand for gold, upon the resumption of specie payments, had suddenly influenced its relative value, it is elsewhere stated, by Mr. Gallatin, that "any extraordinary demand from a particular country is met without difficulty, or sensibly affecting the price of the metal required." This decisive fact (the premium in France on gold not having exceeded one-fifth to one-half per cent.) "also shows that it is erroneously that the exportation of American gold coins, which commenced in the year 1821, has been ascribed to that extraordinary demand. That exportation has been continued uninterruptedly after that cause had ceased to operate, and, as will be seen hereafter, is due to the alteration from that epoch in the rate of exchanges."

Mr. Tooke, an eminent writer, is inclined to doubt the correctness of the opinion, that the British demand increased the relative value of gold; and he remarks, "these circumstances, collectively," (diminution in the export of silver to Asia, and the emancipation of Spanish America,) "are likely to have increased the supply of silver, and give reason to expect that the fall in the price of silver arose from a relative increase of its quantity and consequent diminution of its value, rather than from a diminished quantity and increased value of gold." He admits, however, that "all information hitherto accessible relating to the proportion of the supply and demand of the precious metals, is vague, and insufficient to build any practical conclusion upon; and the only object of the arguments brought forward is to afford grounds for calling in question the opposite presumption, which, in my opinion, has been much too generally and hastily admitted."

Mr. Tooke thinks that England probably possessed

twenty millions of pounds sterling of gold before 1797; the greater part of which, he calculates, would be forthcoming from the hiding-places of the hoarders, or from the continent of Europe, "none (gold) being absolutely necessary (on the continent) as the standard or basis of their circulation, which is silver."

Mr. Baring, an eminent banker, and accustomed to pecuniary transactions of the most extensive and various nature, is an advocate of the double standard, in consideration of the peculiar circumstances of England. He asserts, that "if gold and silver were concurrent legal tenders at the old mint regulation, (1 to 15.2,) silver would at present be the practical standard, as the debtor always acquits himself in the cheapest metal he is enabled to do so by law. Gold was his cheapest payment previous to 1797, and, therefore, the practical standard of the country at that time; in consequence of subsequent variations in the price between gold and silver, silver would be so now. The practical currency may change from one metal to another in a short space of time; the fact of gold having been the practical tender in this country under the former system, and that silver would be so if that system continued, is a practical proof of it.

"It will vary with the variations in the relative value of the metals, however wisely you may adjust the difference. The variation in France is seldom above a tenth per cent.; it sometimes runs up to a quarter per cent.: it has been, I am told, something higher on particular occasions. A very slight difference of one-tenth or one-fourth per cent. would determine the use of one metal or another.

"There is no doubt that when this country (England) returned to payments in specie, supposing we wanted from fifteen to twenty millions of pounds, of gold for instance, and that to that extent there was a demand on the rest of the world for gold, gold got an increased value from that circumstance.

"This country partially rejecting gold as its tender, the effect would be to reduce, to some extent, the value of gold over the rest of the world."

One of his leading motives in recommending the incorporation of silver in the standard, appears to have been an impression that it was "evident that the bank, (of England,) wishing to reinforce its supply of specie, can do so with infinitely increased facility, with the power of either drawing in gold or silver, than if it were confined to only one of the metals. The choice is already much; but the circumstance that silver is the practical standard of Europe more than doubles the certainty and facility of procuring a supply."

The substance of Mr. Baring's evidence before the committee of the British Parliament, being subsequently submitted to the consideration of the Bank of England in four queries, the governor and directors of the bank, in part, thus reply:

"1st. Provided there be sufficient currency in the country for the small payments, there does not appear to the bank to be any advantage in the proposed addition of silver as a general legal tender, from the great difficulty of retaining gold as the bulk of the currency under such an arrangement.

"2d. It does not appear that it would afford to the bank any security against combinations to their prejudice, nor would it enable the bank more readily to rectify the foreign exchanges, nor to provide with less difficulty for periods of panic. Neither does it appear to the bank that it would facilitate their procuring, when necessary, supplies of gold from abroad.

"3d. The bank can see no advantage in reverting to the former system of making silver by weight a legal tender to any amount, and they are further of opinion that a varying scale of value in any metal cannot be otherwise than prejudicial in its effects upon all contracts."

The Secretary of the Treasury, in his masterly and elaborate report to the Senate during the last session, "respecting the relative value of gold and silver," &c., remarks, in reference to the double standard, "that, however exactly the proper equilibrium of values of gold and silver may be adjusted at the mint, the balance is likely to be disturbed by causes which can neither be anticipated nor controlled by political power." And, in the course of his able disquisition, he arrives at the apparently sound and rational conclusion, that the regulation of the measure of value in both metals is inherently defective, and requires to be remedied, and that "this remedy is to be found in the establishment of one standard measure of property only. The proposition that there can be but one standard, in fact, is self-evident. The option of governments charged with this duty is, therefore, between having property measured sometimes by gold, sometimes by silver, and selecting that metal which is best adapted to the purpose for the only standard. Silver ought to be the standard measure of property in the United States, and maintained by mint regulations as the chief material for metallic currency."

Such discordancy of opinion amongst writers distinguished for profound and philosophical views, and practical knowledge of the subject under consideration, is perplexing and embarrassing.

The committee have endeavored to form a just and impartial estimate of the various principles respectively sustained; and they will now proceed to make some appropriate observations upon them, as general truths, and also in reference to the fitness of their application to the existing and peculiar circumstances of the United States.

Gold or silver is the money of commerce, and the measure of value. It is freely received every where as the equivalent in exchange for all other articles. It is, by general consent, the representative of value, the pledge cheerfully taken in fulfilment of bargains, because the receiver knows that he can with it purchase such things as he desires. It is the instrument by which transfers can be most conveniently effected, but it is not the article really wanted.

Commodities are the things actually exchanged and required—provisions, clothing, materials for manufacture, or for other use. Money facilitates exchanges, but its value is in circulation. Commodities are valuable in exchange, and valuable, also, as useful or consumable necessaries. The real value of these depends upon the quantity of labor expended upon their production, but not in any degree upon money price, or the quantity of gold or silver required to measure their nominal value, or to effect their exchange. This price or quantity is regulated by the productiveness of the mines, and by the relation which the portion of that product, pending in currency, bears to the aggregate amount of exchangeable merchandise.

Since the discovery of America, the increase of the precious metals has greatly exceeded the relative increase of commodities; gold and silver are estimated to have multiplied in a fourfold ratio.

Money has become so abundant that prices have risen greatly; the labor which was formerly exchanged for one dollar, will now purchase four silver dollars.

This change would seem to indicate a vast increase in the value of labor, and consequently of individual wealth, in the view of those who consider a great deal of money and riches as synonymous, yet it is not perceived in what respect this great increase of gold and silver has influenced the real value of useful commodities. It has sensibly altered the money price of every thing, and thereby diminished its convenience, as the instrument and measure of commerce, by rendering it more cumbrous, requiring four times the quantity or weight of gold or of silver to measure the same value, and multiplying in the

like ratio the number of coins, and the labor of counting them, without adding, in any manner, to their utility as money, or to their value as property. If one-half of the entire amount of gold and silver now in use was immediately to disappear, or as suddenly to be doubled in its quantity, the consequence would be grievous to debtors, or to creditors; but it is very evident that the real wealth of society would experience no change from either event. The productive power of industry would be neither increased nor diminished, nor would any alteration take place in the utility of its products.

Industry produces commodities, and frugality accumulates capital: but its real value does not depend upon its money value.

Where exchangeable merchandise abounds, gold and silver will be comparatively abundant. Hence, countries rich in productions, will always have more money circulating than nations which produce fewer commodities. The possession of a large amount of money is the effect, but not the cause of wealth; yet a greater abundance of gold or silver, in rich states, being very visible, it has erroneously been viewed as the cause producing greater wealth; and various projects have been frequently suggested or adopted to bring into particular countries more than the natural supply of money, or to manufacture it from other materials than gold or silver. Distinguished statesmen have occasionally countenanced these suggestions, and the value which has been attached to a large supply of the precious metals has been evinced, by inflicting severe penalties upon the exporters of gold or silver; in exhibiting indignation against, or questioning the patriotism of such traders as ship away money where its exportation was permitted; by a great solicitude to encourage intercourse with those countries which possess or distribute the produce of the mines; and in denying or questioning the advantage of trading with any nation which required gold or silver in exchange for its merchandise. It has been exhibited in an anxious desire to have the standard of value regulated in both metals, lest the utility of either might be diminished on becoming a commodity; or under the apprehension that the rejection of either gold or silver as a legal tender would contract the field of supply, or "inflict the evils of a scanty circulation."

The committee are of opinion that wealth consists in an abundance of necessaries, conveniences, and luxuries; that lands, minerals, labor-saving machines, useful commodities, &c. are the constituent parts of national wealth; and that its amount depends upon the skill and industry of its inhabitants.

Industrious and skilful nations will possess a large share of the gold and silver used as money in commerce; but that arises from the superior value of their exchangeable produce.

The value of money is in an inverse ratio with its quantity, relatively dear or cheap, according to the proportion which the entire amount of gold and silver in circulation bears to the aggregate value of exchangeable commodities. The interest of every nation requires its just proportion of the money of the world; and if commerce was free and unrestrained, its operations would assuredly effect an equitable distribution.

The course is natural and obvious. Redundance raises prices, imports increase, or exports diminish; either consequence creates an adverse exchange; and the superfluous supply of money goes off to other nations to liquidate balances. On the other hand, scarcity of money lowers prices, increases exports, or brings in money to buy cheap goods. In the nature of things, redundancy or scarcity must be temporary, as mercantile sagacity is ever active and vigilant to profit by the smallest variations in value; and whilst pursuing gain, it prevents money from undulating greatly, or disadvantageously to the steady occupation of producers.

The correctness of the principle, that money will find its level in the great sea of commerce, unless obstructed by artificial mounds erected by legislative or local regulations, was forcibly illustrated in the case of France in 1794–'5.

Statesmen of transcendent talents, Mr. Pitt and Mr. Burke, confidently anticipated a complete overthrow of the power of France, from the want of money to carry on warlike operations—the inevitable consequence, as they supposed, of the destruction of the assignat currency. Yet, what is the historical fact? The assignat bubble burst, inflicting, without doubt, a serious amount of individual distress, but the productive power of France being uninjured, and the products of its industry being real wealth, and valuable commodities in exchange, gold and silver, which is the instrument of exchange, rushed into France in a powerful stream, filling speedily every channel of circulation with its proper, useful, and relative proportion of coin.

Instead of France, with her great wealth, being prostrated and in poverty, as was predicted by these great men, she quickly possessed more gold and silver than any nation in Europe—a result in strict accordance with well-established principles in the monetary system.

France possessed a large supply, comparatively, of money, because she was in fact the richest nation in Europe, excepting England, who had forcibly driven gold and silver out of circulation, by substituting bank notes. Considering that these incontrovertible principles, in regard to gold or silver money, have been practically verified in the powerful and instructive example of France, it is truly surprising that, in subsequent times, complaints should be made of the want of metallic coin, or of a particular kind of the precious metals.

It cannot be the interest of any country, if it were practicable, to possess a greater amount of the precious metals (which are costly merchandise) than its just proportion, because the value of gold or silver, as money, consists altogether in its utility, as an instrument for effecting exchanges, or for measuring the value of commodities. Its value being relative and only in exchange, it does not appear to be an important consideration to any country, whether the instrument which it thus uses as a labor-saving machine in barter be composed of gold, or of silver, or of both metals.

The committee are induced to believe that every nation will possess its equitable and useful portion of the gold and silver used as money, provided they do not repulse it from domestic circulation, by substituting a different medium of exchange.

One metal may be selected, with a certain assurance of uniformly possessing, *in the metal chosen*, such proportion of the entire amount of the money of commerce, as their exchangeable commodities bear to the total amount of merchandise produced.

If both metals are preferred, the like relative proportion of the aggregate amount of metallic currency will be possessed, subject to frequent changes from gold to silver, and vice versa, according to the variations in the relative value of these metals.

The currency of the commercial world consisting of gold as well as silver, it is seemingly correct and rational to conclude that the indiscriminate use of both metals must be convenient and advantageous to every community. There is, however, a material distinction between the money of commerce and the money of a particular state, which merits notice.

Gold and silver circulate in general commerce as money; but whether they are tendered in new or defaced coins; of the standard of one mint, or a mixture of all mints, or in metal of every variety of form and purity, they are all viewed as bullion, and valued in foreign markets according to the quantity or weight of fine metal.

Whether a nation uses exclusively one metal for its internal trade, or establishes a legal value in both gold and silver, it has been ascertained by experience that one metal only will be the practical standard. Traders will usually find it their interest to carry to each country that description of metal which is the current or exclusive legal tender, because the former is always an overvalued metal, and the latter is of nearly invariable value. The operations of trade being incessant and universal, the value of gold or silver is tested by the estimate of each nation, and an average relative value is thus ascertained and established, with such an approach to accuracy as enables merchants and money dealers, engaged in foreign trade, to effect exchanges freely and securely for the money of commerce, whether tendered in gold or in silver.

But the money of a particular state is the medium of exchange, and measure of value and of contracts, not only for traders and money dealers, but for every member of the community; public convenience, therefore, requires that it should be coined.

Nations generally establish a measure of value, founded upon an ideal unit, or money of account and contract.

Coins, regulated in conformity to this standard, usually compose the metallic currency, and they are generally the only legal tender in payments.

Where gold or silver constitutes the national currency, such a regulation is a matter of great public interest: the stamp set upon the metal is the seal of the state, certifying as to the fineness and weight of the coin, which secures implicit confidence as to its intrinsic value; and the money unit, or its integral parts, or multiples, being exhibited in every coin, facilitates enumeration, exchanges, and payments, and contributes essentially to the convenience and advantage of the public.

The money of a state thus differing in some essential particulars from the money of commerce, the inquiry may be made, with consistency and propriety, whether it is most judicious or expedient to regulate the standard in gold or in silver or in both metals.

Several of the eminent authorities quoted, including some of those who are practically acquainted with money transactions, strenuously maintain the superior advantages of the double standard, contending—

1st. That, in rejecting either gold or silver, the risk is incurred,* "that if the rise is only on one of the metals, for which there happens to be a greater demand, and that should be the sole legal tender, it will be exported, and diminish, in a most inconvenient way, the whole amount of specie, a diminution which, in that case, cannot be remedied by resorting to the other metal, which is not a legal tender;" and it is thought to limit † "the facility of procuring a supply of gold and silver," and that it causes † "the evils of a scanty circulation."

2d. That the rejection of either metal has the effect of "destroying the office and character of one of them as money, and reducing it to the situation of a mere merchandise."†

3d. Although it is conceived to be not possible "that any degree of skill or ingenuity, in adjusting the proportions of gold and silver, can be such as to prevent the one or the other from having a preference, and becoming practically, in the course of a short period of years, the currency of the country, almost to the exclusion of the other, except for purposes of convenience," it is, nevertheless, alleged by Mr. Gallatin, that the hazards from alterations in the measure of contracts, by "those fluctuations in the relative value of the two species of coin, are a quantity which may be neglected;" and it is maintained that ‡ "the necessity of occasional adjustment is a small inconvenience when compared with the great inconvenience of using only one of the metals."

The committee having already expressed their conviction that the operations of commerce, if unimpeded by local and artificial obstacles, will certainly secure to every country its useful and equitable proportion of the money of the world, they feel compelled, reluctantly, to withhold their assent to the opinions preferred in support of the double standard. They cannot admit that, by rejecting one of the metals, any of the injurious consequences predicted would ensue.

England may be instanced as a practical and forcible exemplification: she has, by law, recently (and for more than one hundred years previously, in practice) rejected silver as a tender in large payments, and adopted gold (the most costly and scarce, and least used as money of the two metals) as the measure and instrument for effecting exchanges. A subsequent act, restraining the issue of bank notes under £5 sterling, opened an extensive field for circulation, which was immediately filled with gold; and her experience since, notwithstanding the wild and inconsiderate speculations of 1825, may, with that of preceding times, in regard to pecuniary resources, be compared with the means of any other nation, to test the accuracy of these disadvantageous allegations against the single standard.

The free city of Bremen, an example on a very different scale of operations, uses gold exclusively, without any known inconvenience.

Hamburgh, a neighboring city of great business and wealth, has, for centuries, confined commercial payments to silver.

For ten years past we have, in practice, repudiated gold, and it is believed that money has not been more abundant for the same length of time in our commercial history. Our recent practice has in reality reduced gold "to the situation of a mere merchandise," but certainly without injuring its utility as money; for it is picked up with avidity, even in small sums, and exchanged with the greatest readiness for bank notes, redeemable on demand with silver, or effective in instant payments; its value of course varies according to our pecuniary relations with England, the great market of the world for gold.

If an extensive demand was now to arise for gold, which is "the sole legal tender" in England and Bremen, its export would take place until scarcity of money was sensibly felt. Commodities would then decline in price, or there would be a dimunition of imports until money found its just and natural level, differing, in no perceivable respect, from the effects produced by an adverse balance of payments upon other states using silver, or which have an established legal tender in both metals. For example, in 1827–'8 we became largely indebted to England and France; our silver was exported to a great amount, as well as all the gold that could be procured. The banks curtailed their discounts; money became very scarce; we imported comparatively less; the balance was soon liquidated, and we worked through that adverse period with as little difficulty, suffering, or distress, and recovered from its ill effects as speedily as on any of the many previous occasions that we have encountered the ebbs in commerce, although the increased value of gold had, in effect, rejected it from circulation, and deprived us of the power, alleged to be remediate, of "resorting to the other metal, which is not a legal tender."§

Our own experience, and that of other nations, thus appearing to confirm in practice the accuracy of the principles previously deduced, the committee cannot resist the conviction that the regulation of a national standard

* Mr. Baring.

† General Hamilton's Report.

‡ Senate Report.

§ Mr. Baring.

in gold or in silver, or in both metals, will not, in any respect, influence the pecuniary resources of a state, or contribute any relief whatever in periods of exigency. Unfavorable balances with foreign countries must be discharged with gold, or silver, or commodities. Debtor nations, not possessing mines of the pecious metals, must regulate their imports according to the exchangeable value of their surplus produce; they have no other means of purchasing money or other foreign merchandise. The ill effects of bad seasons, and other unusual and adverse events, which occasion temporary pressure, are soon rectified by industry and frugality.

The great and inherent defect in the double standard, that has produced one of the evils of which we now complain, (the disappearance of gold,) and which has invited the remedy of a new adjustment of its relative value, is deserving of particular and grave consideration.

It has been already remarked, that the capacious mind which delineated the system of money adopted by Congress, expressed a strong desire "to render the unit as little variable as possible, because on this depends the steady value of all contracts, and, in a certain sense, of all other property." He was well aware "that if the unit belong indiscriminately to both metals, it is subject to all the fluctuations that happen in the relative value which they bear to each other."

He appears to have been strongly inclined to select gold as the only measure of value; and the difficulty which he experienced in arriving at the final conclusion to recommend both metals, is clearly evidenced by the undecided terms in which it is announced: "But, upon the whole, it seems to be most adviseable," &c. The obvious advantages of the single standard having yielded to the preponderant influence of an apprehension that the rejected metal would be injured, as money, by "reducing it to the situation of a mere merchandise;" and that "to annul the use of either of the metals as money, is to abridge the quantity of circulating medium, and is liable to all the objections which arise from a comparison of the benefits of a full with the evils of a scanty circulation;" evils which were sensibly experienced at that time, but subsequent experience has furnished strong reasons to doubt if the cause of those evils was accurately conjectured. The committee are, upon the whole, ininduced to believe that the views which they have now expressed do not differ essentially from an authority so deservedly entitled to their respect.

There does not appear to be any diversity of opinion as to one radical defect in the double standard, the unavoidable necessity of occasional adjustments. A large majority of the writers quoted maintain that the overrated metal will always be "the practical currency, which, Mr. Baring says, may change from one metal to the other in a short period of time. Gold was his cheapest payment, and therefore the practical standard of the country (England) at that time. In consequence of subsequent variations in the price between gold and silver, silver would be so now, as the debtor always acquits himself in the cheapest metal he is enabled to do so by law."

Mr. Ricardo has remarked, "whilst each of the two metals was equally a legal tender for debts of any amount, we were subject to a constant change in the principal measure of value."

And Lord Liverpool has alleged, "experience has proved that when coins of the two metals are made a legal tender at given rates, those who have any payments to make will prefer to discharge the debt or obligation, by paying in that coin which is overrated."

The Secretary of the Treasury justly remarks, that, "if the ratio is so adjusted as to maintain both metals for the time being, in equilibrium, subsequent fluctuations may expel that which is most necessary to the currency." These opinions, which in times past were theories for our meditation, are now realized in practice. To use the language of a highly distinguished and learned Senator, Mr. Webster, "the English standard of value is gold; with us, that office is performed by gold, and by silver also, at a fixed relation to each other; but our estimate of silver is rather higher, in proportion to gold, than most nations give it; it is higher especially than in England at the present moment."

"The consequence is, that silver, which remains a legal currency with us, stays here, while the gold has gone abroad, verifying the universal truth, that if *two currencies* be allowed to exist, of different values, that which is cheapest will fill up the whole circulation."

It is, however, on the other hand, alleged, * "that these fluctuations are a quantity which may be neglected;" "that Great Britain, till the year 1797, when the suspensions of cash payments took place, and all other nations, to this day, have used the *two* metals simultaneously, without any practical injury, and to the great advantage of the community;"† and it is also maintained, that "the practical operation of the rule (gold to silver, 1 to 16) is much more instructive, since it shows that this relative valuation of the two metals secures their concurrent circulation in coins in a very large part of the world."

The semblance of disagreement amongst these writers as to realities, induces the supposition that the expressions, "all other nations to this day have used the two metals simultaneously," and "that this relative valuation of the two metals secures their concurrent circulation in coins," should likely be construed, in the restricted sense of a legal right, to tender them indiscriminately in payments.

The committee are not qualified by experience to pronounce with decision as to the usages, or the respective advantages of the money systems of other nations; but, upon a deliberate and candid consideration of the various statements submitted, and a careful examination of many valuable documents, particularly those furnished by the Secretary of the Treasury, they are inclined seriously to question the practicability of devising any regulation of the standard, which will accomplish the desirable object of the bill, so that "every person who has coins of either silver or gold may easily exchange them for coins of the other metal; and that the people may enjoy the advantage of using either species of coins, according to convenience or pleasure."

The committee cannot doubt that the following facts are satisfactorily established by the concurrent testimony of the respectable evidence adduced:

1st. That gold was the practical standard of England from 1717 till 1797, in consequence of its being the overrated or cheapest metal, though the proportions were only 1 for 15.2 of silver, and silver coins were a legal tender by tale until 1774, and by weight subsequently.'

2d. "That silver is the practical standard (of the continent) of Europe," according to Mr. Tooke, "none (gold) being absolutely necessary (on the continent) as the standard or basis of the circulation, which is silver," although several nations regulate the measure of value in both metals, and with such accuracy that the premium on gold "in France, from Mr. Baring's statement, is seldom above a tenth per cent., and sometimes runs up to a quarter per cent."

3d. That gold is the money of contract in "Havana and South America," because it is overrated, and Mr. Gallatin says "this arbitrary order drives of course silver from the market."

The simple fact that gold bear a premium in France and in the United States, and silver in Havana and in

* Mr. Gallatin.

† Senate Report.

South America, appears to furnish incontrovertible evidence that the metal thus undervalued does not circulate concurrently or simultaneously with the overrated metal. If currency thus discriminated produces in its operations that description of concurrent circulation contemplated by the passage of this bill, the result does not conform to the proverbial acuteness of money dealers and traders. They are not in the habit of paying a premium, however minute, for what can be obtained freely without charge; and that which is "concomitant in agency," or acting together "in general circulation," must be supposed to be within the reach of every man. Judging by our own experience, in relation to this point, it is manifest that a premium on gold has banished it entirely from circulation; that the periodical demand for dollars in former times, for Asia, had, during its continuance, the like effect upon silver; and that, in 1827 and 1828, a premium of one-half to one per cent. on Spanish dollars, or those of the new American States, withheld them altogether from public use, although they constituted the great bulk of the specie fund of the United States.

The difference in value, indicated by small premiums, may not prejudice contracts of ordinary amount; but all experience testifies that the customary currency of a state may be changed, to the great inconvenience of the uninformed portion of the community, by the slight inducement of a small fraction of profit.

Sir Isaac Newton relates that louis d'ors of France, worth but 17*s.* 0¾*d.* sterling, became current in England at 17*s.* 6*d.*, and upon being forbidden, at his instance, to pass for more than 17*s.*, they were immediately brought into the mint to the amount of £1,400,000 sterling; at another time moidores were current in the west of England at 28*s.*, which were intrinsically worth 27*s.* 7*d.*, and the country was full of them. Upon orders being issued that the public receivers should take them at 27*s.* 6*d.* only, they disappeared immediately. A profit of 2½ per cent. brought in plenty of louis d'ors, and the loss of three-eighths per cent. drove them out of circulation; 1½ per cent. profit brought in the moidores, and three-tenths per cent. loss made them disappear entirely. "It was (then) evident (as we know now) that they who traffic in coins will trade for a very small profit."

Besides the inconvenience of frequent changes in an instrument so incessantly used as money, fluctuations will occasionally occur, such as we wish at present to remedy, that have a detrimental influence on contracts; for instance, a sale made on credit, in 1820, to the amount of ten dollars, was, according to our legal standard, and in equity, an agreement, by implication, that the seller should receive in payment 3,712½ grains of silver, of the value of 247½ grains of gold. If this contract terminated in 1821, it would have been discharged with ten silver dollars, which could have been purchased with 238½ grains of gold; and if the bargain had not expired until 1822, the payment might have been effected with 230 grains of gold, being a reduction in the first case of three and five-eighths per cent., and, in the latter instance, of fully seven per cent. from the amount agreed upon by tacit stipulation; and, consequently, a departure from the spirit of the agreement, and a violation of contract, though sanctioned by the letter of the law. If the standard should be regulated on the basis proposed in this bill, 233½ grains of gold will be equivalent to ten silver dollars. Suppose that, before the termination of a similar contract, an important demand for silver, for Asia or elsewhere, should suddenly arise, or that the British Government should return, in compliance with powerful solicitations, to the standard of value in force previous to 1819, which measure Mr. Baring thinks would reduce the value of gold 3¾ per cent., will not the payer then discharge his debt in gold, and realize 3¾ per cent. or whatever may be the amount of profit resulting from the influence of unforeseen contingencies upon the relative value of these metals? Is it judicious, or consistent with a high and just regard for the equitable discharge of obligations, to expose pending contracts to the hazard of prejudicial vicissitudes, from causes beyond the national control?

Is there any thing in the ordinary course of events which justifies a legal regulation that, under every change, must operate to the prejudice of the seller?

Are not buyers and sellers, in the free exercise of private judgment, on a perfect footing of equality as to chances of benefit from a bargain, or as to claim for legislative protection? And if so, why should the law be framed on such a principle as to act uniformly in favor of the purchaser?

What are the compensative inducements to maintain regulations so obviously obnoxious to animadversion? The committee are obliged to acknowledge, after the most attentive and deliberate investigation, that, if correspondent advantages really appertain to this system, they must confess their inability to discover them.

It seems to be universally admitted that the regulation of the standard in one metal is the nearest practicable approach to invariableness, and that every attainable degree of uniformity is highly desirable. If the only legal tender in payments were dollars, each containing 371¼ grains of fine silver, the measure would be in quantity as invariable as a foot of twelve inches; and once established as the national standard, no alteration or interference on the part of Congress would ever afterwards be required. Silver being to silver, and gold to gold, identical and invariable, either of them may and will change in its relative value to commodities, as has been already stated, in the event of a material variation in its cost at the mines or from a great alteration in the aggregate amount of exchangeable merchandise; but such important changes are of rare occurrence, or of too slow and gradual growth to prejudice contracts during their usual term of pendency. Whatever might be the relative value of gold to silver, or however frequent their fluctuations, the standard measure in one metal would be unaffected: 371¼ grains of silver would never cease to be equal to the like quantity of the same metal. National produce would be estimated and exchanged in conformity to this measure, and contracts would be discharged in accordance with the strict letter of the law, and the fair and equitable construction of the agreement.

The public would have the gratification of using the coin to which custom and convenience will have attached them. Foreign nations would not have an opportunity to withdraw one description of our currency, and to replace it with the other, to their profit; nor would it be ever necessary to entertain and discuss this very intricate and controverted subject, or to deliberate on the passage of a bill which contemplated an important and serious change in the money unit, upon the invariableness of which the "steady value of property essentially depends." The alteration in the quantity of gold, representing ten dollars, from 247½ grains to 233½ grains, is an actual reduction of six per cent. from the previously existing and long prevailing measure of contracts. Surely a change of such important character should not be made, unless deeply interesting to the public welfare; for, as General Hamilton has justly remarked, "the quantity of gold and silver in the national coins, corresponding with a given sum, cannot be made less than heretofore, without disturbing the balance of intrinsic value, and making every acre of land, as well as every bushel of wheat, of less actual worth than in time past."

As it may, however, be the pleasure of the Legislature to attempt an effectual adjustment of the relative value of gold, some inquiry into the causes producing this necessity may be appropriate.

Lord Liverpool, Mr. Baring, and Mr. Ricardo, state that the practical currency of England, from 1717 till 1797, was gold, in consequence of its being the overvalued metal relatively, and the cheapest payment, although, during that period, the established standard was but 15.2 of silver for 1 of gold.

The legal value of the guinea was fixed, in 1717, by the recommendation of Sir Isaac Newton, the master of the mint, at 21*s.* sterling each, which price he estimated to be 4*d.* or 1⅔ per cent. higher than its average value in commerce.

The quotation of prices of bullion in the London market, furnished by the Secretary of the Treasury, since 1760, corroborates the opinion that gold was overrated in the mint regulations; the prices of gold and silver during ten years of profound peace, from 1783 until 1792, are upon an average in the relative proportions of 1 of gold for 14.76 of silver, indicating a premium of about 3 per cent. on silver; and it is worthy of notice that, in the year 1785 alone, did the market price of gold conform to the legal standard.

It does not appear that there was any export of gold from the United States, of consequence, from 1792 till 1821—a period of such extraordinary commercial vicissitudes, that exchange must have occasionally been unfavorable. The relative legal value during that time was only 15 of silver for 1 of gold; and silver having been frequently at a premium of 1 to 3 per cent., gold could of course have been obtained without difficulty. Such respectable opinions and confirmatory circumstances, connected with the fact that England has long been the great market for gold, seem to authorize the inference that General Hamilton did not undervalue gold in 1792.

The coinage of France in 1785–'6, having been regulated at 1 of gold for 15½ of silver, exhibits a material difference in the estimate of value in that country. It may, however, be observed, that some period of tranquillity, and of public confidence, as well as an adverse balance of payments with other nations, is necessary to test the accuracy of such regulations. Internal dissatisfaction, loss of public credit, revolutionary movements, failure in paper currency, domestic or foreign wars, influence materially the relative value of gold to silver, in consideration of the comparative portableness of gold, for concealment, or for facilitating military operations; one or other of these extrinsic causes influenced in some degree the pecuniary regulations of France, from 1785–'6 till 1816. The fact that gold in France did not command a premium of more that one-half per cent.* "during the four years which immediately followed the resumption of specie payments in England," cannot, it is conceived, be considered "a conclusive proof that it could not at most have enhanced the price of gold more than 3-10ths per cent., since, in that case, the advance would also have taken place in France, whence, in fact, a considerable portion of that demand was supplied." The proof is admitted to be conclusive as to the actual value of gold in France; but it must be recollected that if the balance of payments between England and France was about equal, and there cannot be much preponderance where the currency is metallic, the charges of transportation must in such case be added, in order to ascertain the English value. Suppose that the proportions in French coin are equal to 1 for 15.7 of silver, if a premium of 3-10ths per cent., probable deficiency in the weight of circulating coin ½ per cent, and insurance, freight, &c. ½ per cent. be added, it would place gold in England at the high relative rate of 1 for 15.9 of silver, equivalent to a premium of six per cent. upon our mint price. That the demand for gold was sensibly experienced in France at that period, may be inferred from a statement of the gold coined at the mints of France, according to Mr. Tooke; in 1818 the amount was 126 millions of francs; in 1819, 52 millions; in 1820, 28 millions; and in 1821, when the British demand was active, the coinage of gold in France nearly ceased, being only four hundred thousand francs in that year.

If the statements of the relative amounts of supply of the precious metals are entitled to any confidence, the increase in the production of gold since the commencement of revolutionary movements in Spanish America, 1810, must have fully compensated the reduction in the demand for silver in Asia.

If the value of gold had risen from an increase of cost at the mines, which it is reasonable to conclude constitutes its real value, that increase of value would doubtless have been distinctly exhibited in England antecedent to 1797, and since, in general commerce, whether England had returned to specie payments or not. There were certainly no indications that gold was rated too low in our standard of 1 to 15 earlier than 1821, when the English demand commenced. The fact of concomitance in events is not relied upon as a proof of effective agency; but a great demand for gold, and an increased relative value for gold, being coeval circumstances, and in accordance with the universally admitted principle that a new or sudden increase of demand will enhance prices, it appears to be a natural and rational inference that the British demand for gold was the cause of increasing its value in respect to silver.

Mr. Baring thinks "there is no doubt that when this country (England) returned to payments in specie, supposing we wanted fifteen to twenty millions of pounds of gold, for instance, and that to that extent there was a demand on the rest of the world for gold, gold got an increased value from that circumstance."

Mr. Tooke admits that, at first, he coincided in this opinion, but, subsequently, he was inclined to question this "presumption (which, in my opinion, has been much too generally and hastily admitted,") chiefly on the ground that the supply of silver has actually increased—a conclusion which is not sanctioned by any authentic record within the knowledge of the committee, and at variance with the effects usually produced by revolutions and sanguinary civil wars, in any country, upon the amount of its staple commodity for exportation.

The annual product of gold for coinage and for manufactures is not estimated to exceed two millions of pounds sterling. Whether England required from foreign nations twenty, fifteen, or even ten millions of pounds, the magnitude of either amount could scarcely fail to have an important influence on the relative value of the precious metals. If the aggregate quantity of gold and silver, used as money, was unchangeable, the suspension or resumption of specie payments, by any great nation, would influence the money prices exclusively, and but slightly or temporarily disturb the relative value of the metals; but when it is well known that the precious metals are purchased in vast quantities for other purposes than money, it seems reasonable to conclude that a sudden demand for gold, as money, equivalent to five, eight, or ten years of the entire produce of the gold mines of the world, must necessarily, in competition with the manufacturing demand, enhance its value in reference to silver. If it could be clearly demonstrated (which may be questioned) that the rise in gold, in 1821, has been fully maintained since, the committee are not prepared to admit that this circumstance would controvert their position, because the vacuum created by such an immense draft on other nations cannot be speedily filled. The bullion market of England has been more fluctuating than might be expected, if the rise was the result of increased cost in the production of gold.

The quotations adverted to furnish the following result:

* Mr. Gallatin.

1821, 1822, 1823 } Average relative value 1 of gold for 15.92
1824, 1825, 1826 } Average relative value 1 of gold for 15.65
1827, 1828 } Average relative value 1 of gold for 15.75
1829 Average relative value 1 of gold for 15.94
1830 Average relative value 1 of gold for 15.78

But admitting the uncertainty of estimates or predictions as to the present or future amount of supply of the precious metals respectively, it may nevertheless not be irrelevant to remark, that, as the exploration of new mines of great promise speedily become matters of notoriety, and as universal experience has established the fact that mines long and deeply worked become less productive, it may be fairly concluded that the amount of silver annually furnished is not upon the increase; whilst, on the other hand, we have positive evidence of a rapid increase (as yet, to be sure, not comparatively on a great scale) in our own country, in the production of gold from mines represented to be of great territorial extent, and of encouraging and fruitful appearance.

After an attentive consideration of the circumstances connected with the rise of gold, the possible contingencies, and the prospects as to amount of supply, the committee are of opinion that its present relative valuation in commerce is not likely to be maintained; and they, therefore, cannot recommend the adoption of the value proposed, that of 1 for 15.9 of silver.

If they were well persuaded that the rise will be permanent, it would not change their sentiments in regard to the inexpediency of attaching a price to gold higher than its average rate in the commercial world. When coins circulated freely in the United States, silver composed the chief part of the currency; it has at all times formed a large portion of our specie fund: our money unit was founded upon the computed value of a Spanish silver dollar. It has ever been the actual or implied measure of contracts. Silver is the money to which we have been accustomed; and it is, also, generally speaking, the money of commerce. Public and mercantile convenience uniting in favor of silver as coin, it would appear to be highly injudicious to hazard the loss of our silver, by elevating the value of gold even to its average rate in commerce.

The committee are finally of opinion that the rate proposed by the Secretary of the Treasury, of 1 of gold for 15.625 of silver, is the utmost limit to which the value can be raised, with a due regard to a paramount interest—the preservation of our silver as the basis of circulation.

The committee have not overlooked the fair claims of our own gold miners; and they will now proceed to show that the decision against a high estimate is, in no degree, injurious to their interest.

Mr. Crawford, in his much esteemed report on currency, makes the following sensible and important observation: "If paper can be made to circulate, independent of its employment in the transmission of funds, gold and silver to the same extent will be exported. If paper will be received and employed generally as the medium of exchange, and especially if it is issued in bills of small denominations, the amount of specie which will be exported will be great in proportion to the paper in circulation. If this position be correct, the power of Congress will be insufficient to retain any considerable portion of gold or silver in the United States."

These opinions are so decisive as to the inutility of legislative regulations, with the view of placing and maintaining gold and silver coin in general circulation, that the committee will try their accuracy by the convictive, if not infallible test of our own experience.

It may be affirmed that our currency, at the adoption of the constitution, was almost entirely composed of gold and silver money; the Bank of North America was in operation, but its notes had not likely much circulation. In 1791, the first Bank of the United States was instituted; but it is presumed that its issues were neither very great, nor perhaps intended to be of that denomination which passes easily into wide circulation, as General Hamilton, who projected that institution, was of opinion that "bank circulation is desirable rather as *an auxiliary* to, than as a *substitute* for, that of the precious metals. It is believed that, so lately as the year 1800, coin constituted the bulk of the circulation, and was the chief instrument used for effecting exchanges of small amount. Bank notes were rarely seen south of the Potomac, or west of the mountains; and having had probably a restricted circulation in the interior of any State, it is not unlikely but that the people of the United States, until that period, (banks being too few and distant to be used as general depositories,) did enjoy the advantage of "using either species of coins, according to convenience or pleasure."

Subsequently banks increased in rapid succession; public confidence and convenience facilitated the issue of their notes, and bank bills very soon ejected gold and silver coins from every channel of circulation which the denomination of the notes were adapted to fill. Notwithstanding this extensive substitution of paper in place of coin, gold and silver circulated partially until the war. It is not known correctly when the emission of notes under five dollars commenced; but presuming that few of that denomination were issued before the war, it is evident that a considerable amount of gold and silver was necessary to the public convenience, and, being necessary, it was no doubt possessed. The notes of local banks generally do not circulate freely beyond the limits of their State; and the first Bank of the United States having issued no bills of a lower denomination than ten dollars, travelling expenses, and other objects of distant disbursement, created a considerable demand for gold or silver, whilst the vast variety of minor expenditures under five dollars, must have retained in circulation a large amount of Spanish or American dollars.

It is a reasonable and moderate estimate to suppose that a population of seven and a half millions, in 1811, required, for the purposes recited, not less than seven or eight millions of gold and silver coin, independent of the integral parts of a dollar, wanted as change. Silver dollars were of necessity in circulation, as there was no substitute, and gold was probably more abundant than was indispensable to public convenience; being the overrated metal, it was no doubt paid out by the banks in order to check the exportation of silver, or to realize a profit on its sale. The dissolution of the Bank of the United States occasioned a great increase of local institutions; war soon succeeded, specie payments were suspended, and the whole country was inundated with notes from one-sixteenth part of a dollar upwards, to the entire exclusion of the precious metals.

After the banks resumed specie payments, silver continued to be occasionally in demand for exportation, at a premium. Gold being consequently the cheapest metal, composed a considerable portion of the specie fund; and it was tendered and paid out by the banks in preference to silver, until the year 1821, when the English demand commenced. Since that time gold has disappeared entirely from circulation, and also from the vaults of the banks. The resumption of cash payments did not restore our circulation to the footing of 1811. Five dollar notes have been constantly issued by the present Bank of the United States, and notes of one, two, and three dollars, circulate in a great majority of the States, to the exclusion of silver, except as change.

This brief statement exhibits the progressive alterations

in our currency, from coin to bank notes, issuing finally in a paper circulation, (redeemable on demand with specie,) and no coin above the fractional parts of a dollar—a result which illustrates and verifies the assertion of Mr. Crawford, that "if paper will be received and employed generally as the medium of exchange, and especially if it is used in bills of small denomination," it will be impracticable "to retain any considerable portion of gold or silver in the United States." The current of business which inevitably produces this effect, is well understood or easily explained. The advantages enjoyed by a bank over an individual money-lender arises from such general confidence in its solidity as induces the deposite, for safe keeping, of the surplus funds of the community, and the reception of its notes as money. These are the sources of profit beyond the use of its capital, and of these the chief is usually its issues. Banks not only hold the surplus funds of the society, and furnish the circulating medium, but every payment and receipt of magnitude is made through their agency. The entire currency of the United States is thus constantly flowing into the banks, and out again into general circulation.

If the profit of these institutions depends materially upon the emission of their paper, is it likely, is it reasonable, to expect that they will ever voluntarily make payments in coin? If money is not much wanted, the issue of notes strengthens their vaults, and places them in an attitude to meet with facility the first improvement in business. If money is in fair demand, will not the desire to realize large profits keep their specie as low as prudence will authorize, and cause them to regard with solicitude its emission? Is it not obvious that their interest presents constantly a strong inducement to avoid the disbursement of specie? Have we not all experienced, or heard of the reluctance with which banks part with coin? And is it not well known, that when money is in demand, instead of meeting a call for specie with cheerfulness and accommodation, the general desire and practice is to tender that description of coin which the applicant does not want? If gold is demanded, will not silver be tendered, and the reverse?

This course of business is in accordance with the nature of the vocation; and it is not mentioned with the slightest disposition to imply censure or disapprobation, but to show, in the practical operation of our money system, the inefficacy of any measure to increase the circulation of gold or of silver, whilst bank notes retain the public confidence, and are issued of small denominations.

The legal authority to regulate the currency of the United States was one of the powers granted to Congress by the constitution; but its practical efficiency is exercised exclusively by the banks. The money used by the people of the United States for every object of internal trade, is bank bills. The specie basis, which sustains the circulation, is regulated in its amount according to the pleasure or discretion of the issuers of the paper. The notes are redeemable on demand, in coin; but that liability, however beneficial as a security, has no effect upon the composition of the circulating medium. Any sum demanded will be promptly obtained, for concealment, or manufacture, or for exportation; but whatever may be the amount of specie withdrawn from the bank for other purposes, the circulation of coin is but momentarily increased, as the strong current of payments speedily carries it back to the banks, whose interest it is to reissue a less costly substitute.

The committee have thus minutely examined the course of banking operations, in order to show that, although, as the committee of the Senate state, "bank notes are pressed into every channel of circulation," so "diffused through our extensive country, and so much is silver banished from circulation, that the option to demand silver is not within the reach of the great body of the people;" yet it does not appear how this difficulty would be removed by the coinage of gold. Congress can establish such a relative value for gold as would soon convert all the silver in the vaults of the banks into that metal; but it is apprehended that "the power of Congress will be insufficient" to force gold into circulation, while five and ten dollar notes are issued, and sustained in circulation by public confidence.

Cordially concurring in the justice and propriety of the remark, that * "a bad state of the coins is a great evil; but when such a state of the coins is continued for the purpose of promoting the use of paper money, the end is pernicious, and the means are an abuse of power," the committee nevertheless cannot perceive wherein the legislative authority can be exercised, under existing circumstances, so as to improve or alter the domestic circulation.

Leaving out of view the past year, during which the balance of payments with other nations has been unusually in our favor, it is questionable if the total amount of specie generally in the United States has much exceeded the amount possessed nearly thirty years ago, although population has more than doubled, and wealth has increased in a much greater ratio. The amount of silver in circulation, of which half a dollar is the highest denomination, is estimated at five to eight millions; the former is likely the most accurate conjecture, as a large majority of the States, including those which have made the greatest progress in commerce and manufactures, use notes of one, two, and three dollars. According to a statement entitled to respect, the situation of the State banks and of the Bank of the United States on the 1st of January, 1830, as regards circulation and specie, was as follows:

Notes of State banks, including nearly $5,000,000 of notes under five dollars, and deducting notes of other banks on hand—

	Circulation.	Specie.
Amounted to - -	$36,000,000	$13,000,000
Bank United States, nett issue	13,000,000	7,000,000
Total circulation - -	$49,000,000	$20,000,000
Estimated amount of silver change -		5,000,000
Total amount of specie - - -		$25,000,000

As these issues are sustained in circulation by public opinion, the community must be satisfied with their safety and convenience, or the power which sustains would promptly be withdrawn. We have commerce and wealth enough to bring and buy the precious metals, as well as many other luxuries that we purchase; and we may therefore be considered as exemplifying, in part, the general opinion of Mr. Lowndes in regard to paper currency and the precious metals, who states, in his report on coins, that "wherever trade has existed without the paper, specie has been abundant, and scarce always where the paper has existed, either with or without the trade; we must conclude, that when precious metals become scarce, while the price of foreign and domestic productions continues high, their scarcity rusults, not from the country being unable to procure or retain them, but from *its choosing* to employ a substitute for their use."

It has, however, been suggested by Mr. Gallatin, that "Congress may, if it deems proper, lay a stamp duty on small notes, which will put an end to their circulation;" and it has also been proposed, "in order to bring gold more generally into circulation, that all notes under the denomination of ten dollars might be suppressed." "The reduction in the amount of the paper currency, arising from the suppression of the small notes, may be estimated at six or seven, and that produced by the sup-

* Senate Report.

pression of the five dollar notes at about eight millions. Both together would probably lessen the paper currency by one-fourth, and substitute silver and gold coins in lieu thereof."

The partial introduction of gold and silver coins into general circulation would, no doubt, render our current medium a more certain and stable measure of exchange, and contribute to the gratification of those who prefer coins to paper. The committee are not insensible of the advantages thus proposed; and if circumstances authorized any effectual change, they would readily concur in such measures of melioration as expediency might suggest. They are of opinion that the wages of labor, and the produce which small farmers pass immediately to the consumers, might, with advantage and propriety, be paid in coin, on the ground that this industrious and deserving class, who derive no benefit from the credit system, should not encounter any risk in the medium of payment.

An alteration of this nature would open an extensive home market to our miners, as gold might then be coined at such a regulation of value as would secure its permanency in circulation; and if it were limited to effect the small payments noted, it would not expose our silver to hazard, nor would such a measure as is apprehended raise prices injuriously, it having been ascertained, by long experience in England, according to Lord Liverpool, that "this rise is influenced by a defect in that sort of coin only which is the principal measure of property, and in which our balances to foreign countries are regulated and paid;" for, as Mr. Ricardo remarks, "the silver currency was, during a great part of this period, (a long period previous to 1797,) very much debased; but it existed in a degree *of scarcity*, and, therefore, on the principle which I have before explained, it never sunk in its current value."

But there will be time enough to ascertain distinctly the public opinion in regard to alterations of important character, before it will be in the power of Congress to interfere with efficiency.

Independent of other existing difficulties, the committee entertain the decided conviction that the public faith solemnly guaranties to the proprietors of the Bank of the United States the privilege to issue notes of five dollars.

The numerous reports and official statements which have been made to Congress upon coins and currency, abundantly testify that some dissatisfaction has long subsisted in regard to our circulating medium.

The committee, therefore, were of opinion, that, however tedious a minute disquisition upon a subject of such intricacy might appear, it was their duty to effect a complete investigation.

Notwithstanding the notoriety of great discordancy of views prepared the committee to encounter the difficulty of making an election amongst authorities of equal eminence and capacity, yet it has been the cause of much regret that their conclusions have oftentimes differed from the sentiments of those for whose judgment they entertain high respect.

The committee have carefully collated the diverse opinions of many writers of great distinction and celebrity, upon this complicate and controvertible subject; and having engaged in its examination with unprejudiced minds, and an earnest desire to arrive at just views of general principles, and of their beneficial adaptation to the peculiar circumstances of the United States, they will now conclude their report with a recapitulation of the result of their deliberations and investigations.

1st. That the operations of commerce will assuredly dispense to every country its equitable and useful proportion of the gold and silver in currency, if it is not repulsed by paper, or subjected to legal restrictions.

2d. That it cannot be of essential importance to any state, whether its proportion of the money of commerce thus distributed consists of gold or of silver, or of both metals, it being the instrument of exchange, but not the commodity really wanted.

3d. That there are inherent and incurable defects in the system which regulates the standard of value in both gold and silver: its instability as a measure of contracts, and mutability as the practical currency of a particular nation, are serious imperfections; whilst the impossibility of maintaining both metals in concurrent, simultaneous, or promiscuous circulation, appears to be clearly ascertained.

4th. That the standard being fixed in one metal, is the nearest approach to invariableness, and precludes the necessity of further legislative interference.

5th. That gold and silver will not circulate promiscuously and concurrently for similar purposes of disbursement, nor can coins of either metal be sustained in circulation with bank notes, possessing public confidence, of the like denominations.

6th. That, if the national interest or convenience should require the permanent use of gold eagles and their parts, and also of silver dollars, the issue of bank bills of one, two, three, five, and ten dollars must be prohibited.

7th. That, if it should hereafter be deemed advisable to maintain both gold and silver coins in steady circulation, and to preserve silver as the measure of commerce and of contracts, gold must be restricted to small payments.

8th. That, if it is the intention to preserve silver as the principal measure of exchange, permanently and securely, it will be necessary to estimate the relative value of gold under its present average, or probable future value in general commerce.

Influenced by these considerations, the committee recommend that the standard value of gold be regulated according to the ratio of 1 of gold for 15.625 of silver, and that the portion of alloy hereafter used in coinage be established at one-tenth.

The gold eagle to contain 237.6 grains of fine gold, equal to 264 grains of standard gold.

February 22, 1831.

Mr. C. P. White, from the select committee to whom was referred a resolution of this House of the 23d December, 1830, directing them "to inquire into the expediency of providing by law that dollars of the new American Governments, and five-franc pieces, shall be a legal tender in the payment of all debts and demands; and, also, whether any additional regulations are necessary relative to the recoinage of foreign silver coin at the mint," made the following report:

That the authority "to coin money, regulate the value thereof, and of foreign coin," is one of the powers specially and exclusively granted to Congress by the constitution of the United States; and, in the exercise of this appendage of sovereignty, various regulations have been enacted in regard to foreign coins and coinage.

The constitutional expression clearly justifies the inference that foreign coins were current money, and that their adjustment and retention in circulation were desired by the people of the United States. A brief consideration of the usages of other states, and a minute inquiry into our own practice and present circumstances, will be useful guides in the progress towards just conclusions.

Although national coins are usually and appropriately the metallic currency of the commercial world, yet some states have risen to the highest rank in commerce and general prosperity without adopting the principle of a standard of value exclusively in their own coins. England and France have maintained the exclusive system, but Holland, Hamburg, Genoa, China, and the United States, have more or less freely received the coins of well-known mints at their intrinsic value. Peculiarity of circumstances may have induced or recommended this di-

versity of regulations, but there is not any evidence in the historical result that the exclusive system was particularly beneficial, or that the free reception of foreign coins was inconvenient in practice, or prejudicial in its effects. Our own experience corroborates the latter view.

France is a convictive instance of great national prosperity under a rigid and persevering adherence to its own coins; still it is not perceived that the reception of foreign coins at their intrinsic value, with their use restricted to large commercial transactions, could have operated otherwise than beneficially. The profit upon transactions in money depends materially upon its prompt and easy disbursement; and its being undervalued at the mint, as is the case in France, amounts to a tax and restraint upon its importation, and to that extent it diminishes or prejudices exchanges.

During the progress of Holland to pre-eminence in trade and wealth, (and until very recently,) the introduction of foreign coins was uniformly encouraged. Money was coined for small domestic purposes, but every description of gold and silver coins was received at the bank according to its real value, and there assimilated to the commercial currency, under the general title of "Banco." Genoa at an early period, and Hamburg to this day, have, with great advantage, practised a similar system of mercantile accommodation, except that the deposites in the bank of the latter city have always been restricted to silver. It is alleged that the money of commerce in China is foreign coins converted into gold and silver ingots of certain fineness.

The monetary system of England is comparatively modern, and it is peculiar to that nation. Except the late period of war, their regulations for more than a century established, in practice, the principle, now in legal operation, of a single standard in gold, but a mixed currency. Bank notes, at one time not less than £20 sterling, afterwards £10, and now £5, redeemable on demand in gold, are issued and used as the chief circulating medium for discharging commercial or other large obligations. But it is contemplated that all minor transactions, retail business, wages of labor, &c., should be paid in gold, unless under the value of forty shillings, when it is optional to use silver coins. Under this arrangement, it is computed that the currency of England is composed of thirty millions of pounds sterling in paper, twenty-two millions of gold, and eight millions of silver; one-half of their entire circulation being metallic. Foreign coins are not a legal tender, but gold in every shape is current at a trivial discount, (one-sixth of one per cent. at present,) or occasionally at the mint value, coinage being free. Silver is there a commodity, varying in price with the foreign exchanges; a seiniorage of six per cent. being exacted at the mint, its coinage becomes a Government business, and the supply is regulated by the amount of effective demand.

This limited use of silver rather tends to depress its market value, the more especially as this metal, which England rejects, is, generally speaking, the practical currency and money of the commercial world. The British nation, nevertheless, contend that this inconvenience is amply compensated by the steady preservation of the value of the money unit, and the retention of the customary coins permanently in circulation.

Our own practice in regard to gold and silver money has differed materially from the usage of any of the nations adverted to; and, as custom has an important influence in establishing predilections, a minute and accurate inquiry on this head may prove advantageous and instructive.

Foreign gold and silver coins were the only description of metallic currency that circulated in these States anterior to 1792. In that year, Congress authorized the erection of a mint, regulated the proportions of gold to silver, and established a relative value in all foreign coins then current, according to their intrinsic worth; rendering them concurrent tenders in payments, in conformity with the language of the constitution, which distinctly intimated the necessity and utility of their circulation.

Although gold and silver have both been used and regulated by law, yet it is believed that silver coins alone were legally recognised during our colonial history. Whatever may have been the case in this respect, there can be no doubt but a "Spanish dollar" was originally the practical money unit; and if obligations have been discharged with gold and with paper, as well as silver, a certain number of Spanish dollars has, at all times, constituted, specially, or by implication, the basis of exchange, and the measure of the contract.

Our money of account was, originally, an ideal unit, called a pound; but it is very evident that the Spanish dollar was universally current, from the fact that, although its value varied in the colonies from 4*s.* 8*d.* to 8*s.* currency each, it was uniformly estimated, in computations of exchange with England, at 4*s.* 6*d.* sterling. The universality of that estimate is presumptive evidence that the Spanish dollar was the practical currency of the colonies; and our adherence to a mode of calculation so obviously erroneous, exhibits such pertinacity as will only attach to old and well-founded habits; but the nature of the estimate proves, incontrovertibly, the antiquity of its practice. Spanish dollars of that value ceased to circulate, by tale, in 1728. From the reign of Philip III of Spain, until that time, the standard fineness of silver was 11 1-6 dinhieros fine; therefore, the marc of Castile, 3,557 grains, must have yielded 8½ dollars, containing 389 4-10 grains, but the remedy then being (two grains fine) nearly three grains each, the value of dollars, antecedent to that period, was, likely, from 386½ to 387½ grains of fine silver. According to the British standard established in 1601, 444 grains of fine silver being rated at 5*s.* 2*d.* sterling, 4*s.* 6*d.* were represented by 386 7-10 grains, equivalent to the average value of the Spanish dollar, as above stated, in circulation previous to 1728.

Sir Isaac Newton's return of assays, made by order of the British Government earlier than 1717, contains this statement:

	Dwts	Grs.	Eng. stand'd. Dwts.	Eng. stand'd. Grains.	Value sterl'g.	Grains fine silver.
					s. d.	
Dollar of Spain	17	12	17	10 1-10	4 6	386¾
Dollar of Mexico	17	10 5-9	17	8 7-10	4 5 5-6	385½
Pillar dollar	17	9	17	9	4 5 7-8	385¾

And Ricardo, in his "Traité General du Commerce," asserts that it was rare to see in the British American provinces any English coins, but that the following foreign silver coins were made legal tenders in payment, by an act of Parliament passed during the reign of Queen Anne, in 1706, viz., German rix dollars, Flemish ducatoons, French crowns, Portuguese crusados, and Dutch three-guilder pieces, at specified rates; and the variety of the Spanish dollars is designated thus:

Dollars of—	Dwts.	Grains.	Value sterl'g.	Value curr'cy.
			s. d.	*s. d.*
Seville or Mexico, weight	17	12	4 6	6 0
Seville or Peruvian, do.	17	12	4 5	5 10¾
Pillar dollar, do.	17	12	4 6¾	6 1

Which several circumstances fully establish the fact that the Spanish dollar has been, throughout the entire period of our commercial history, the practical or legal money unit, and the chief instrument of exchange.

In 1728, the standard purity of silver in the Spanish dollar was reduced to 11 dinhieros, equal to 383.2 grains, being a reduction in value of 1½ per cent.; and a royal edict, issued in 1772, established the regulation which yet prevails, of 10¾ dinhieros fine, equivalent to 374⅞ grains to each dollar, with but one grain fine for remedy.

In 1786, the Congress of the Confederation adopted a dollar as the money unit, and fixed its value at 375 64.100 grains of fine silver, the coins to contain one-twelfth part of alloy.

General Hamilton, in his celebrated report upon the establishment of the mint in 1791, recognised the Spanish dollar as the practical standard of the United States; but, from some cause not now susceptible of satisfactory explanation, he does not appear to have ascertained correctly the precise value of that coin which he evidently desired to adopt as the unit and basis of our monetary system. The art of assay must have been then very imperfectly understood in the United States, as he notes a difference of twenty-four grains in the result of various experiments—an incredible disproportion in coins of established and universally good reputation.

The European assays, which returned the quantity of fine silver at 368 to 374 grains, were probably a correct record of every variety in circulation; but as the regulations of all mints are dictated with fractional precision, it ought to have been inferred that a discrepance of six grains was attributable to wear, and not to irregularity in the fabrication of such a valuable commodity. General Hamilton assumed the average, instead of the highest assay, as the groundwork of his system; and, having added thereto one-fourth of a grain, in order to attain numerical exactness in the relative value of gold, our dollar or money unit was finally regulated in 1792 by a law of Congress, which altered the value of the unit adopted in 1786, in the following terms: "there shall be, from time to time, struck and coined at the said mint, dollars or units, each to be of the value of a Spanish milled dollar, as the same is now current, and to contain 371¼ grains of pure, or 416 grains of standard silver."

The early operations of the mint do not appear to have conformed to this legal regulation. Amongst various assays made in London by eminent artists, as furnished by Dr. Kelly, American dollars are stated as follows:

Years.	Weight.	English standard.	Grs. fine silver.
	dwts. grs.	*dwts.*	
1795 -	17 8	6½ worse	373.6
1798 -	17 10½	7 do.	375
1802 -	17 10	10½ do.	368.3
Average of 8 years -	17 8	8½ do.	370

Whatever may have been the rate or regularity of the mint operations, the quantity of dollars coined in twenty-three years, ending with 1816, (1,400,000,) was too trivial to create any distinction in value in internal circulation: our customary standard, the Spanish dollar, constituted then, and at all times, the chief portion of the metallic currency, as well as of the specie held by the banks. It continued to be the practical tender and measure of contracts; and the concurrent circulation of so small a portion of our own coins occasioned no inconvenient discrimination. Congress ceased to regulate the value of one description of foreign coins after another, until, finally, in 1827, none were recognised as legal tenders except our ancient money, the "Spanish milled dollar." If plurality rightfully confers denomination, these dollars should always have been distinguished as "Spanish American dollars;" they were coined by the mints of this continent, and the dollars of Spain were rarely seen in circulation.

Political events have given new and more respectable titles to the countries from whence these coins have always issued, and a change of name alone has withdrawn the privilege of presenting these dollars as a legal tender in payments.

Very recently a demand for specie upon one of the most respectable banks in our commercial metropolis was met by a tender of dollars coined by the mints of America, formerly Spanish, and refused: the friendly aid of another institution furnished the required amount in United States coin, and relieved the bank from the mortifying and painful alternative of acknowledging its inability to redeem its notes with lawful money; thereby hazarding the enforcement of the penal article of its charter, which inflicts twelve per cent. per annum interest, until the demand is legally discharged. The money tendered was well known to be of the same standard as the "Spanish milled dollars," and about one-half per cent. more valuable than our coin, fulfilling, in every essential quality, the spirit and object of the law, yet liable on any occasion to be refused, from a nominal discrepance with the legal requisition.

The various laws of Congress, in respect to foreign coins, having obviously contemplated their rejection from general circulation so soon as circumstances might conveniently authorize that measure, and as the "Spanish milled dollar" will, ere long, disappear in foreign trade, the present occasion appears favorable to an expanded consideration of this subject.

In countries where gold and silver compose exclusively or chiefly the currency, it is a general and very convenient practice to use national coins. The public seal is a satisfactory evidence of their value, and the money unit and its parts, being uniformly exhibited, facilitates computation. This usual practice did not, however, obtain, when our circulation was principally metallic; and the motives of convenience, which recommend an extensive issue of standard coins, cease to have influence in our present circumstances. Our currency is bank notes, to the exclusion of the precious metals, except as change. The money unit of the United States, or its concurrent tender, "Spanish milled dollars," is rarely, if ever, seen in circulation. The currency differs from that of all other nations extensively commercial, in being truly and effectively paper, secured by a specie fund, held by its issuers, the banks.

The public are deeply interested in the amount of this safety fund; but it does not appear to be of any importance to their convenience or security, whether it consists of gold or of silver, of coins or bullion.

Its peculiar character cannot be of any consequence to the banks, as their interest merely requires a supply, sufficient for every exigency, of whatever may be designated lawful money.

Gold and silver, whether coined or not, are viewed in the commercial world as bullion, and valued according to their quantity of fine metal. The stamp of the United States adds nothing to the value of the precious metals abroad; and, as it is a costly impression, it should only be applied when necessary to the general convenience of the community. It is not perceived in what respect the public convenience is promoted by the coinage of silver, which passes temporarily into the vaults of the banks, and is soon afterwards again melted by refiners in foreign nations.

That such is the course and effect of commercial enterprise, will be evident upon reference to the mint operations, and to our trade in the precious metals.

The director of the mint states that the American coin possessed by the Bank of the United States and its branches, is less than two millions of dollars, or about one-sixth part of its specie; assuming a similar ratio for the State banks, (which is a liberal estimate, considering the advantageous position of the former institution,) the entire amount of American coin held by the banks does not, likely, much exceed four millions of dollars. Taking the issues of one, two, and three dollar notes, in the Eastern States, as a guide, it does not seem probable that there is a greater amount of silver in general circulation, of all denominations, than five miltions of dollars, of which, perhaps, three to four millions are American coin.

According to this estimate, the national coins do not, likely, exceed seven to eight millions of dollars in silver. The mint has fabricated thirty-seven millions, of which nine millions were of gold. Considering that twenty millions of silver coins have been issued since 1817, and about eleven millions within the last five years, the inutility and inexpediency of extensive operations at the mint are manifest. Our coins being less valuable than Spanish dollars, or those of the new American States, would have the effect to maintain them exclusively in domestic circulation, if the currency was metallic; but the same cause, that of being overrated, induces the banks to tender them on all occasions when specie is demanded for exportation, unless they can obtain an acceptable profit on their foreign dollars. The difference of intrinsic value is about four to five mills each, but foreign dollars have commanded from one-half to one and one-fourth per cent. premium; hence the inferiority in value of our coins tends to hasten their exportation.

The amount of foreign gold and silver coins exported annually, during five years ending with September, 1829, appears to be about six and one-third millions of dollars.

1825,	specie exported,	$8,797,055
1826,	do	4,098,678
1827,	do	6,971,306
1828,	do	7,550,439
1829,	do	4,311,134
		5)31,728,612
	Average exports yearly,	$6,345,722

The average yearly amount of American coins for three years (which are the only distinct returns) is about eight hundred thousand dollars.

1827,	American coins exported,	$1,043,600
1828,	do do	693,000
1829,	do do	612,900
		3)2,349,500
	Average annual export,	$783,167

From which it appears that there are in all upwards of seven millions of dollars annually exported.

The imports of gold and silver during the same time average seven and one-fifth millions.

1825,	specie imported	$6,150,765
1826,	do	6,880,966
1827,	do	8,151,130
1828,	do	7,489,741
1829,	do	7,403,612
		5)36,076,214
	Average imports yearly,	$7,215,243

During the same period, the exports to Mexico and South America averaged, yearly, domestic produce, about four and a half millions; foreign produce, six millions, viz.

Exports.		Domestic.	Foreign.
1825,	Mexico and S. America	$5,117,900	8,533,400
1826,	do	4,717,700	8,237,600
1827,	do	4,561,500	4,879,600
1828,	do	4,622,200	4,509,800
1829,	do	4,242,400	3,459,100
		5)23,261,700	29,619,500
	Exports average yearly,	$4,652,360	5,923,900

Imports from these countries, nearly six millions of dollars of merchandise, and nearly five millions of gold and silver.

Imports.		Merchandise.	Specie.
1825,	Mexico and S. America	$6,014,900	3,684,000
1826,	do	6,778,200	3,657,100
1827,	do	4,735,800	5,704,300
1828,	do	6,136,700	5,533,800
1829,	do	5,913,500	5,672,500
		5)29,579,100	24,251,700
	Imports yearly average,	$5,915,820	4,850,300

These various details appear to authorize the following conclusions:

First. That it is of no importance to the public, or to the banks, the description of the silver money that constitutes the specie fund, provided a sufficiency of American coin for change can be obtained, and that Congress give a legal character, as was the practice formerly, to the foreign coins which usually circulate in general commerce.

Second. That American coins being overrated, deficient in fine metal in comparison with foreign dollars, does not prevent their free exportation.

Third. That the demand for internal circulation is of very trivial amount.

Fourth. That a large portion of the gold and silver coins imported is purchased with foreign produce, and is, in transit, destined, through our agency, for distribution to supply the wants of other nations.

If these opinions are well founded, the gold and silver coins imported are commercial commodities, calculated for foreign consumption, and entitled to every facility and privilege consistent with sound policy.

An error having been committed in establishing the money unit "of the value of a Spanish dollar" at 371¼ grains of pure silver, there are two modes in which the consequent and existing inconvenience may be remedied.

First. The error may be rectified, without inflicting any injury of consequence or prejudice to property or contracts, by causing the rate of coinage to conform to the original and clearly expressed intention of the law, that of 374 grains of fine silver to the unit or dollar, being the value of a Spanish dollar in 1792, and limiting the tender of the half dollars now in circulation to payments of ten dollars; or

Second. The inconvenient effect of the error may be corrected, by adhering to the established and existing silver standard, by rejecting the ancient currency and money of contract, a "Spanish milled dollar," as a tender by tale, and by estimating all foreign coins as bullion, and regulating the measure of its value by its quantity.

The committee are decidedly in favor of this latter course. A new and powerful mint is nearly completed, and American coins ought hereafter to be the only metallic money in domestic circulation. The Spanish dol-

lar will soon be unknown in foreign trade; the dollars of the new American States have not yet been legally recognised; and specie being unusually abundant, the circumstances are propitious to the permanent adoption of a measure which has long been contemplated.

The silver coins in the banks should be viewed as the money of commerce, the value of which is determined by its quantity of fine metal. This course is in accordance with sound mercantile principles, and with former usage.

Congress has repeatedly sanctioned it, by regulating the value of British, Portuguese, French, and Spanish gold; and, also, of five-franc pieces and crowns of France; giving them currency, according to their weight when tendered, at rates calculated to minute fractions, varying with the standards of their respective mints—a course of policy which is equitable to all in its effects, and beneficial as well as accommodating to commercial operations.

Our merchants import these dollars to discharge their debts, or to make purchases from foreign nations. When the imported dollar of 373½ to 374 grains of fine silver is received on arrival at the value of 371¼ grains, the importing merchant is taxed two-thirds of one per cent. upon his property, which is money. Suppose these dollars are minted into American coins, one hundred dollars and one-half will be furnished to the depositor for every one hundred dollars imported, at the expense to the United States of one and one-fourth per cent., according to the statement of the director of the mint; and when thus converted, at this heavy expense to the public, the one hundred and one-half dollars of American coins are less valuable abroad than the one hundred dollars imported, as will be perceived by reference to copies of actual sales in France.*

If these coins were a legal tender on the principle of regulation applied to other coins noted, being current, by weight, at the correct value ascertained by mint experiments, (that of 116 1-10th cents per ounce,) justice would be rendered to the importing merchant; a heavy annual expense would be saved to the United States; and banking and commercial transactions would be greatly facilitated. If our currency was metallic, public convenience might reasonably demand, and properly discharge, the expense of coining all silver previous to its being tendered in payments.

The foreign dollars being imported for no other object than exportation, it appears to be a departure from sound policy to countenance regulations that cause a deduction tantamount to the imposition of a tax of one-half per cent. on a commodity, as it were, but temporarily in entrepot.

It is yet more injudicious to incur a heavy annual expense at the mint, in giving these coins a new character (that of United States dollars) less known in commerce, and consequently rather a disadvantageous alteration.

The chances of profit to the merchant are greater when an export of the precious metals is made in foreign coins. They may be returned to the countries from whence they issued, or where they are current, and be used on arrival as effective money; or some of them may be received in particular States with partiality, as is the case in France with Spanish dollars, or those of the new States, which appear to command six centimes each, or about 1 1-7th per cent. more than our coins, although the difference, according to the mint test, is but one-half per cent.

It has been suggested by the Secretary of the Treasury and the director of the mint, whose opinions are justly entitled to great respect, that the existing inconvenience would be removed, by regulating the Mexican dollar alone as a legal tender, by tale, in all payments.

The committee are inclined to view this recommendation as not sufficiently efficacious. Our uniform appellation of "Spanish milled dollars" embraced the coins of Spain, and of various mints in America. The discrimination suggested might not be viewed agreeably; and there is no evidence that any of the South American dollars (except those of La Plata and Colombia) differ in any degree as to standard fineness, nor is the least valuable of them inferior to our dollar.

The measure proposed would prevent the recurrence of the difficulty experienced at New York, but it could have no tendency to establish Mexican dollars of 373½ to 374 grains in concurrent and promiscuous circulation with American coin of 371¼ grains of fine silver. It would not relieve the mint from its present oppressive duty of coining, uselessly, foreign dollars at the heavy expense of twenty thousand dollars yearly; nor would it produce the desirable and equitable effect of enabling our enterprising merchants to obtain the just value for their money on its arrival. Formerly, when a merchant imported crowns or five-franc pieces, or gold, he was authorized to tender them in all payments at their intrinsic worth in fine metal, as ascertained by the mint. If this just right be so restricted as to protect the community in their ordinary dealings from inconvenience, the regulation of all such foreign coins as our merchants trade in, as legal tenders, (according to quantity of fine metal,) cannot fail to facilitate and benefit commercial transactions.

In conformity with these views, the committee recommend that the dollars of Mexico, Central America, Peru, Chili, and also the dollars restamped in Brazil, of the denomination of 960 reas, shall be a legal tender in all payments above the sum of one hundred dollars, at the rate of 116 1-10th cents per ounce troy, provided the aforesaid coins shall be of the usual standard fineness of 10 ounces 15½ pennyweights of fine silver to the pound troy of 12 ounces; and that the five-franc pieces of France, of the standard of 10 ounces 16 pennyweights fine to the pound troy, shall likewise be a legal tender in all payments exceeding one hundred dollars, at the rate of 116 4-10th cents per once troy.

The committee beg leave to annex to this report some valuable documents in relation to the mint, which have been furnished by the Secretary of the Treasury. The communications from the highly respectable director of that institution will be perused with much interest and satisfaction, as they exhibit great skill and accuracy in the management of a scientific, intricate, and important establishment.

The result of the mint operations may be stated thus:

1795 to 1830, 37 years—			
	Gold coined,		$9,335,000
	Silver coined,		27,480,000
			$36,815,000
	Expense,	854,000	
	Wastage,	117,000	
		$971,000	or 2.5 per cent.
Gain on copper,	$127,200		
1817 to 1830, 14 years—			
	Gold,		3,800,000
	Silver,		20,100,000
			$23,900,000
	Expense,	325,000	
	Wastage,	66,000	
		$391,600	or 1.5 per cent.

* See Secretary of the Treasury's report on gold coins.

1826 to 1830, 5 years—		
Gold,		1,303,000
Silver,		10,937,000
		$12,240,000
Expense,	121,500	
Wastage,	30,000	
	$151,500 or 1¼ per cent.	

Annual average deposite of silver.

1826 to 1830, 5 years—		
Bullion,		$600,000
Mexican dollars,	$1,500,000	
Spanish dollars,	150,000	
Various coins,	150,000	
Coins,		1,800,000
Average yearly deposite of silver,		$2,400,000

From these statements, it appears that the mint has coined, since its establishment in 1794, about thirty-seven millions of dollars, of which amount four-fifths probably have been exported, leaving only seven to eight millions in the United States, after incurring the heavy expenditure of nearly one million of dollars.

The silver coinage of the last five years is nearly eleven millions, or about two-fifths of the entire quantity minted of that metal; of these eleven millions, about eight millions have been coined from foreign dollars, chiefly of that description which is most current in general commerce. The new character will certainly not be advantageous to their final disposal, though it has been effected at an expense to the public of fully one hundred thousand dollars.

The committee have already expressed the opinion that this weighty expenditure of the public money on standard foreign coins is not recompensed by any sort of public benefit; and the following extract from a letter of the director of the mint affords strong confirmatory testimony of its correctness:

"The specie of the United States Bank is now nearly eleven millions, and of this amount they have less than two millions in our coin—a sum which does not exceed the amount delivered that bank from the mint within the present year. Our coinage for that institution, from 1834 to this time, exceeds eleven millions of dollars."

This account seems to authorize the impression that our coins go abroad almost as speedily as they are fabricated. Whatever may be truly the case, it is very evident that the minting of foreign coins is a useless expenditure of the public revenue to a large amount annually.

If the total quantity of coins in general circulation be correctly estimated at five millions of dollars, the wear and necessary supply for an increasing population cannot, under our present system of money, create a yearly demand for more than two to three hundred thousand dollars of new coins, in addition to the amount in circulation.

The deposite of silver bullion, for five years past, appears to be increasing; and its annual average being $600,000, there is no reason to doubt but the mint will be abundantly supplied with silver for every useful and desirable object.

The director of the mint is of opinion that certificates of deposites may be issued in one to five days; and the committee recommend to the consideration of the House the expediency of adopting such measures as will authorize the Secretary of the Treasury to pay the amount of all deposites of bullion as speedily as the value can be ascertained, deducting therefrom one-half per cent., which the director states to be the usual discount on these certificates.

The committee are of opinion, from the mint return, that there must be a scarcity of quarter dollars, and they think the operations of the mint might be advantageously extended in the fabrication of that coin, and also of dimes and half dimes.

Late experiments amongst the scientific artists of France encourage the expectation of improvements in the mode of assay, calculated to establish greater accuracy and uniformity in its results.

The suggestion of the Secretary of the Treasury, in reference to the relative proportion of alloy in coins, is judicious, and its adoption would simplify the process of alloying. The decimal divisions are convenient, and appropriate to our monetary system. One-tenth part of standard coins, whether gold or silver, is recommeded by convenience. The existing proportion of 179 to 1664, in silver coins, is very irregular, and without any apparent benefit.

It is to be regretted that any of our silver coins should contain minute fractions of a grain, when an entire grain of silver is only worth about one-fourth of one cent. The singular minuteness of fractions, usual in all mint regulations, is inconvenient in calculation, and unsuitable as a measure, where the value depends exclusively on its quantity. It was wisely and appositely remarked by an eminent philosopher, (Mr. Locke,) that the "broken proportion of baser metals to silver, in the standard of the several mints, seems to have been introduced by the skill of men employed in coining, to keep that art (as all trades are called) a mystery, rather than for any use or necessity there was for such broken numbers."

APPENDIX.

House of Representatives, *April* 25, 1832.

My dear Sir: I had the pleasure of forwarding one of the reports on coin, which I trust you have received. May I ask the favor of your reply to the following queries?

Assuming the average expense of coining half dollars to be one per cent., and wastage one-fourth of one per cent., what would you conceive to be the relative expense of coining and of waste on quarters of a dollar, dimes, half dimes, and a similar statement in regard to the relative expense and wastage upon eagles, half eagles, quarter eagles?

What do you estimate the expense incurred by the coinage of cents? And what has been the average cost of the quantity of copper used in making cents, to the amount of 1,000 dollars, within the last few years?

What proportion of alloy do you think might be incorporated in dimes and half dimes, without lessening their durability? In the small coins of many of the European nations, the proportion is very great. What would probably be the relative amount of attrition if the alloy was twenty, twenty-five, or thirty per cent.?

What amount of charge per ounce would be abundantly sufficient to defray the expense of melting and assaying gold, and stamping the weight and fineness upon the ingots, and the same with respect to assaying and stamping the weight and fineness upon silver in ingots?

The laws regulating the mint require revision and emendation, and, as they are now scattered through several volumes, are troublesome to refer to, and no person can possibly understand the subject so well as you do; and I wish your convenience would permit you to examine into the matter.

Whenever that is done, I am decidedly of opinion that our coins, both of gold and silver, which are to be the principal standard of value, should be made to correspond to the proportions used in the French mints, say nine-

tenths fine, and one-tenth alloy. Upon examining some documents here, I find that Mr. Rittenhouse conformed to this proportion during the entire period of his service as director of the mint, as respects silver, making the dollar 416 grains standard, alloy 41.6=374 4-10 grains of fine silver, although this was manifestly unauthorized by law.

Mr. De Saussure, for the short period he was in office, did the same, and it was not until Mr. Boudinot succeeded to that situation that it was made to correspond to the law. I am inclined therefore to think that Mr. Rittenhouse had discovered the error into which General Hamilton had fallen respecting the quantity of fine silver in a Spanish milled dollar; because the proportion used by Mr. Rittenhouse is stated to have been sanctioned by the then Secretary of State, Mr. Jefferson, and the Secretary of the Treasury, Mr. Hamilton.

Excuse the trouble I now give you; and believe me to be, with much respect and esteem,

CAMPBELL P. WHITE.

Dr. Samuel Moore,
Director of the Mint, Philadelphia.

Mint of the United States,
Philadelphia, May 4, 1832.

Dear Sir: I have now the satisfaction of replying to the inquiries embraced in your letter of the 25th ultimo, in part, reserving the subject of the change of the standard of our coins, as also that of a revision of the laws regulating the mint, for another occasion.

In regard to the proportional expense of the coinage of the several denominations of silver coins mentioned, viz., half dollars, quarters, dimes and half dimes, and the relative waste thereon, after due consideration, and conference with the proper officers of the mint, I have to state that, assuming the expense on half dollars, exclusive of wastage, to be one per cent., which may be considered as nearly correct, under present circumstances, on a coinage of about two and a half millions of dollars, the proportional charge may be stated as follows:

Half dollars,	1	per cent.
Quarter dollars,	1½	"
Dimes,	2¼	"
Half dimes,	3	"

The relative wastage on the above may be stated as follows, viz.:

Half dollars,	.25	per cent.
Quarter dollars,	.28	"
Dimes,	.33	"
Half dimes,	.36	"

According to the above estimates, when the amount of coinage is such as to make the charges on half dollars, including wastage, to be 1¼ per cent., the same expenditure employed on the several denominations named would present the following proportional results:

Half dollars,	1.25	per cent.
Quarter dollars,	1.78	"
Dimes,	2.58	"
Half dimes,	3.36	"

The per centage of expense, as I have on former occasions remarked, diminishes, in some degree, in proportion to the amount coined, as a part of the charges of the establishment are invariable, whatever may be to coinage. The estimates above given are based on such an amount as have been found, with our present facilities, under existing regulations, to cost about 30,000 dollars; and the result exhibits the per centage of cost on the amount of the several denominations which could have been coined with the same expenditure, supposing a suitable adaptation of the different parts of the machinery.

I would remark, however, that the application of the power of the mint for a whole year, or even for the fourth of that time, in one continuous period, to the coinage of denominations below the half dollar, has never occurred. Hitherto, the smaller coins have been an object of attention simultaneously with the larger; a measure rendered almost indispensable, in order to expedite the payment of deposites, and also further recommended by the difficulty of disposing of the small coins, except in limited proportions.

In regard to the coinage of gold, I have to observe that, for any amount which can be estimated on as the probable coinage of a year, the difference of expense per cent., on account of coinage or wastage in the different denominations of our gold coin, would be scarcely appreciable. The estimates given in my communication to the Secretary of the Treasury, of January 28, 1831, published in your report, state the cost of a coinage of gold of three millions of dollars in a year at the half of one per cent.; and that of any additional amount at one-tenth per cent., exclusive of wastage, on the additional sum. The wastage on gold is there stated at about the fifth of one per cent. Those estimates were founded on a coinage consisting almost entirely of half eagles, the only denomination of which any but trivial amounts have been issued from the mint within late years. The estimate would require no correction of any moment, if applied to eagles or quarters.

Copper for coinage has hitherto generally been imported for the mint in disks of the weight of the coin intended. In this form, the average cost of the copper may be stated at 28 cents, when delivered at the mint, for a pound avoirdupois. Within the last few years, a pound avoirdupois of our copper coins is equivalent to 41⅔ cents. The expense of the coinage of cents, when copper is received in the state above referred to, may be estimated at about five per cent. on the value issued; so that the cost of a pound of cents may be estimated at about 30 cents. On the amount of 1,000 dollars the cost of the material, viz. 2,400 pounds of copper, would be 672 dollars, and the coinage 50 dollars, making 722 dollars per 1,000 dollars.

The subject of the loss on coins by attrition has been investigated chiefly in relation to those of a fineness near our legal standard. The effect as to this particular, from combining with silver the proportion of copper which you suggest, has not been well determined. The celebrated experiments of Hatchett, in 1803, established various useful results in relation to alloys of gold, but alloys of silver were not an object of special attention.

I forward, herewith, a few specimens of a coin in imitation of our dime, composed of three parts of silver and one of copper; so that if the compound, 25 per cent., consists of copper, instead of about 10⅔ per cent., as in our standard silver, the difference of complexion will distinguish them when perfect, and much more so when a little worn. Some of the specimens, and also of the genuine coins, were simultaneously subjected to attrition in a manner which was designed to be equal in all particulars, and must have been very nearly so. The effect of this imperfect trial would indicate that the spurious coin bears attrition with as little loss as the genuine.

This compound is sensibly more refractory, under all the manipulations belonging to coinage, than our standard silver. It would require more care, and the operations would be less expeditious, but its coinage could be effected, if deemed expedient—a question which I am sure will be well considered.

The expense per ounce for melting, assaying, and stamping ingots of gold and silver, must depend very much on their weight, and also on the consideration whether the ingots are to be of uniform weight and fineness.

The assay of an ingot of gold might be estimated at 50 cents, including the affixing the requisite stamp of its fineness. The price per ounce will thus result from the weight; that of a silver ingot might be estimated at 25 to 50 cents, according to the weight.

The expense of melting may be estimated sufficiently near, it is presumed, for the purpose of any calculation it may be your wish to found thereon, as follows:

20 ounces and under, 2 cents per ounce.—No melt to be less than 25 cents.

50 ounces and under, 1½ cents per ounce.—No melt to be less than 40 cents.

100 ounces and under, 1 cent per ounce.—No melt to be less than 75 cents.

250 ounces and under, ¾ cent per ounce.—No melt to be less than 100 cents.

500 ounces and under, ½ cent per ounce.—No melt to be less than $1 87½.

In the above classes, the weights not exceeding 100 ounces would generally consist of gold, and the higher weights of silver. The highest weight should not exceed 1,000 ounces, which, with all weights between this and 500 ounces, might be $2 75. On the above proportions, subject to some correction from experience, a table could be constructed for every particular weight.

The above estimates, in regard to melting and assaying, proceed on the supposition that individuals bring, at pleasure, various irregular amounts of gold and silver, of which the quality is to be determined, and the proper stamp impressed on the bar. If, in the inquiries to which this relates, you have in view the expense of issuing from the mint ingots of uniform weight and fineness, to be adjusted with the precision due to coinage, the above calculations would be, in various ways, irrelevant. I have not supposed this to be your object. If this be a misapprehension on my part, the calculations will be corrected accordingly, if desired.

I was aware, from the early correspondence on record in the mint, that the first coinage of silver had conformed to the proportion of 10oz. 16dwts. fine in the pound, which corresponds with the present French coinage. The assay weights employed by the first assayer remain in the mint, having that proportion marked on standard.

With great respect, your obedient servant,

SAM. MOORE.

Hon. C. P. White, *House of Reps.*

Mint of the United States,
Philadelphia, May 25, 1832.

Sir: Agreeably to your request, I now offer a few remarks in regard to the subjects referred to the Committee on Coins.

On the subject of the relative value of gold and silver, I have to observe that the proportion recommended by the committee, of 15.625 for 1, does not appear capable of producing any disturbance in our currency. I concur in opinion with those who think that there can be practically but one standard of value, and that, for this purpose, silver is the most fit, especially for the United States. In this view of the subject, it is highly important that gold should not be so estimated as to displace silver from our currency, when the state of foreign exchange may be such as to induce the export of specie. No danger of this result, it is conceived, however, can be apprehended from the change proposed, which is equivalent to an advance of 4⅛ per cent. on the mint value of gold.

Gold at present constitutes no part of our currency; and not having, within any recent period, performed in the United States the offices of coin, it has not been the standard of value assumed in existing contracts. The proposed measure, therefore, within the limits mentioned, seems liable to no exception under any aspect of the case. No anxiety is felt, as to consequences, while silver remains the undisturbed standard of value.

It may perhaps be found that a higher advance than that now contemplated may be also perfectly safe. There is one principle affecting the result of this experiment, the influence of which cannot be precisely estimated, viz.: the effect to be produced on the money market for gold, when the United States, with a view to render it a sensible auxiliary in their currency, shall thus enter into competition with those nations in whose currency it is an essential or important element. It is by no means my purpose, however, to recommend a higher ratio than that contemplated by the committee.

If the bill should be passed during the present session of Congress, its effects might be so far ascertained, probably, by the commencement of the next, that a corrected adjustment could be then made on surer data, and form a part of a revised system of mint regulations, which it would be well to defer, until this and some other questions embraced in the resolutions shall have been determined on.

Allow me, while on this topic, to submit for your consideration a ratio, whereby the eagle would be made to consist of 260 grains standard, which would give all our gold coins without the fraction of a grain, and presents, also, this striking coincidence, that the weight of our gold and silver coins would be to each other in the proportion of 1 to 16, provided the weight of the silver coin remain unchanged. It may be effected by adhering to our present standard, one-twelfth of alloy, and raising the value to 15 16-26, say 15.577 for 1, which would be equivalent to an advance of 3.84 per cent. on the present mint value of gold. This is near the proportion of advance contemplated by the committee. It is still nearer that recommended by Mr. Gallatin. Another consideration in favor of it is, that thereby the first experiment of a higher ratio would be made without changing our gold coins, except in weight. The eagle, constituted according to the above principles, would contain 238⅓ grains fine gold, 21⅔ grains alloy, and 260 grains standard.

If the proportion now to be assumed should be found too low for the desired effect, there is another mode of constituting the eagle of 260 grains, which might then perhaps be resorted to with safety, and a reasonable hope of its remaining undisturbed for a long period, viz. by a ratio of 15.865 for 1, and an alloy of one-tenth. This would be equivalent to an advance of 5.77 per cent. on the present mint value of gold. The eagle formed by these proportions would consist of 234 grains fine, 26 grains alloy, and 260 standard; no fraction being required to express either of the constituent parts.

I annex a comparative view of the effect of the several proportions which have been thus far suggested, from different sources, for the reformation of the eagle.

	Fine.	Alloy	Standard.	Proportion of alloy.	Gold to silver.	Advance p. ct.
Mint -	$238\frac{1}{3}$	$23\frac{2}{3}$	260	$\frac{1}{12}$	1to15.777	$3\frac{34}{100}$
Mr. Gallatin	$237\frac{7}{8}$	$21\frac{5}{8}$	$259\frac{1}{2}$	$\frac{1}{12}$	1to15.607	$4\frac{8}{173}$
Mr. Ingham	$237\frac{6}{10}$	$21\frac{6}{10}$	$259\frac{2}{10}$	$\frac{1}{12}$	1to15.625	$4\frac{1}{5}$
Committee	$237\frac{6}{10}$	$26\frac{4}{10}$	264	$\frac{1}{10}$	1to15.625	$4\frac{1}{5}$
Mint -	234	26	260	$\frac{1}{10}$	1to15.865	$5\frac{77}{100}$
Mr. Sanford	$233\frac{26}{53}$	$21\frac{12}{53}$	$254\frac{38}{53}$	$\frac{1}{12}$	1to15.900	6

In regard to the regulation of the value of certain foreign silver coins, there are some considerations which recommend a modification of the rate proposed.

The bill contemplates a valuation of the dollars enumerated, at the rate of 116 1-10th cents per ounce. This is founded on a calculation of the weight of fine silver contained in those coins, estimated at the same rate as fine silver in the coins of the United States, according to

the regulations of the mint. It will thence happen that, when the limited period has elapsed, the holders of those foreign coins will be unable to dispose of them at the rate at which they were received, without first incurring the charge of sending them to the mint for coinage; the expense of which may be estimated at least as high as the full difference by which the average of the foreign dollars mentioned exceeds in weight of fine silver the dollar of the United States.

If the foreign silver coins, now in question, be made a legal tender at the rate proposed, their tendency to come to the mint would be very much restrained. There would, in fact, be some danger that our own silver coins would be exported in preference to the foreign coins, on account of their being perfectly clean, and not liable to the suspicion of containing counterfeits. The result would be, it is apprehended, that, at the end of the period assumed, the amount of the issues from the mint would be much less than has been anticipated.

I would, under these views, respectfully suggest, in regard to the various dollars enumerated, if it be deemed expedient to embrace them all in the provision, that they be made a legal tender on the same principles on which the Spanish dollar has, for many years, been a legal tender, and which the bill does not change in regard to that coin, viz. at the rate of 100 cents for a dollar, provided they are of the standard fineness of the Spanish dollar, and the weight thereof not less than 415 grains. The importer of those coins will sell them at a premium above this nominal value, when the market demand for them will bear it, or will send them to the mint when that will avail him better, and will tender them at the proposed value only when they are worth no more to the receiver.

In regard to the five-franc pieces, I retain the views expressed in my letter of January 22, 1831, published in your report of last session. If it be considered expedient to resume their legal tender, I would, on considerations analogous to those suggested above in regard to the foreign dollars, recommend that the rate be no higher than 116 cents per ounce, at which rate they were, for a series of years, formerly a legal tender.

A proposition is now respectfully submitted for consideration, having in view the final termination of the currency of foreign coins in the United States, viz.

That it be declared, in an amendment to the bill on the subject of the legal tender of foreign silver coins, or otherwise, that the sixteenths and eighths of the Spanish dollar shall cease to be a legal tender on the 4th of July, 1834; that the fourths of the Spanish dollar shall cease to be a legal tender on the 4th of July, 1835; and all foreign coins on the 4th of July, 1836. It is indeed true that most of the fractions of the Spanish dollar are below the proportional weight assumed as the condition of their legal tender, but this is not universally the fact in regard to any of them.

The above provisions could be carried into effect without inconvenience to the community, and would therefore not be liable to be defeated by applications for their suspension or repeal. They would have the effect of an authoritative notice, on which the mint would call the attention of the various banks and public institutions throughout the United States to the most facile means for procuring the designated coins required to supply the circulation. Time would be afforded within the above limits to effect their distribution—a measure not to be accomplished suddenly, nor without the most assiduous care. In the mean time the coinage of the higher denominations would also proceed, and the circulation become filled with a metallic currency, as rapidly as it could be prepared for its reception, by a well-devised abstraction of the redundant paper. The foreign silver coins would contribute their aid during the early years of the period, and, towards its close, it may be presumed would come very freely to the mint.

In regard to seiniorage.—The design of this would, it is presumed, be twofold: to lessen the expense of the mint to the public Treasury, and to retain the national coins in the country, by diminishing their liability to be exported.

Under existing regulations, the whole of a deposite of bullion at the mint is returned to the depositor in coins, and without charge, if the bullion be of standard fineness. The proposition now is to set apart for the Government, in future, a certain proportion of the bullion thus deposited, and out of the remainder to make for the depositor as many coins as are now made from the whole deposite, and to declare them a legal tender at the same value as our present coins of full weight. This is understood to be intended by the term seiniorage, the expediency of which has been referred for consideration.

By the proposed operation, the Government would appear to be relieved, to the extent of the seiniorage, from the expenses of the mint. It is obvious that the coins thus minted would not be exported until those of full weight would command a premium for exportation, proportioned to the diminution of their weight by the seiniorage, since the national coins are exported only for the bullion they contain: they are considered as bullion in a foreign country.

It thus appears that a seiniorage, equal in amount to the expense of coinage, accomplishes the twofold object in view. It would seem that to the depositor also this procedure is sufficiently favorable: he receives the full tale of coins, and they are a legal tender at the same value as coins of full weight. If they are really thus available for him, he has in effect paid nothing for coinage.

Some fallacy is to be suspected under these appearances. On reflection, it occurs that the new principle of coinage has produced a new measure of value, whereby every form of production which becomes the subject of its action will be advanced in price, beginning with the coins of full weight, which immediately bear a premium for the purposes of the arts or for exportation.

The principle of a seiniorage of the character in question is specifically different from a charge for coinage, equal in amount to the given seiniorage, but exacted by setting apart for the Government an equal proportion of the coins when finished of full weight; and delivering the remainder to the depositor. The seiniorage is, in these remarks, considered as taken from the weight of the deposite only, which is the least objectionable, as being most obvious; the results would all be the same in effect, if it were taken from the fineness only, or partly from both.

Under present regulations, if 1,300 ounces of silver, of standard fineness, are brought to the mint, $1,500, containing 1,300 ounces of standard silver, will be delivered to the depositor, after some delay, but without charge. If a seiniorage of one per cent. were now directed to be set apart for the Government out of the above deposite, it would render to the depositor $1,500, containing 1,287 ounces of standard silver. The 13 ounces retained for the Government, which would, by our present coinage, make $15, but by the new about $15 15, would be thus coined for its use, so that the deposite, by this mode, yields to the currency $1,515 15.

If a charge for coinage were directed to be made, by retaining one per cent. of the number of coins, the remainder being delivered to the depositor, he would receive $1,485, weighing, as before, 1,287 ounces of standard silver; the Government would receive $15 for its use, making a currency of $1,500 out of 1,300 ounces of standard silver, in like manner as if the coinage continued free. It is manifest that no change in the measure of value is produced in this case.

Under the first supposed modification of our coinage, viz. by a seiniorage, the depositor receives $1,500, with which he can discharge a previous contract of that amount; under the latter, he receives from the same deposite $1,485, with which he can discharge only that amount of a previous contract. It is manifest, in this latter instance, that the depositor pays the charge of coinage; but who pays it in the former? The depositor, in the case supposed, escapes. The first creditor, who receives the new coins in payment of a previous contract, and has no debt to discharge with them, it would appear, must pay it. All who receive more of these coins than they can apply on account of previous contracts, sustain a proportional share.

All creditors under previous engagements, therefore, are liable to be affected injuriously by the change. The Government is a creditor to the amount of the public revenue, which is generally receivable in coins by tale. Its expenditures are also disbursed, to a certain extent, by a tale of coins previously settled, and so far the effect on the public Treasury is neutralized, by transferring it to other receiving parties; but so far as its expenditures embrace objects liable to the vibrations of price, the public Treasury pays, in the consequential advance on all supplies, a share of the seiniorage on coinage.

The Government can do its creditors justice by a change of the tale they are to receive, and can reinstate the public Treasury in the available amount of its receipts, by a proportional advance on the contributions to the revenue. When all these adjustments have been made, and prices have become conformed to the new measure of value, the condition of things will be the same as if, instead of the dollar of 416 grains of standard silver, it had been declared, in the original institution of the mint, that 411.84 grains should constitute the dollar, so that 1,309 ounces should be coined into $1,515 15, and that one per cent. of the number of coins, viz. $15 15, should be retained by the Government.

A small seiniorage would involve, indeed, a derangement of existing relations nearly inappreciable in its effects. It does not, however, appear to be recommended by any advantage, as a device for supporting the mint, which should entitle it to a preference over the more direct mode of retaining an equal proportion of the coins of full weight. It is liable to specific objections, and its aspects moreover, are wholly inauspicious.

A high seiniorage must produce a corresponding disturbance of existing relations, with obvious inequity in its first effects, and an eventual equivalent advance in all prices. The results of this policy, when it has been tried by an embarrassed Government as a source of revenue, or a relief from instant debts, are in confirmation of the above views. I am aware, however, that the inquiry does not extend thus far.

But may not a seiniorage produce a decided tendency in the national coins thus minted, to remain in the circulation of the country?

If the above principles be true, the coins thus minted will remain in the circulation until all coins containing more bullion, under a given legal value, have been expelled; or until such coins, and all other forms of bullion, together with bills of exchange, and all production estimated by the new measure of value, shall have so advanced in price, that the bullion contained in the national coin will be considered as not less available in the foreign market than the coin is at home. When this state of our commercial relations has arrived, the national coins constituting the measure of value will be shipped, as convenience shall suggest, to the party interested.

But would not this evil of an exportation of the national coin be deferred and restrained, if not wholly obviated, under a seiniorage which should make the legal value of our coins more conspicuously higher than their value as bullion? and, under such a seiniorage, would not the United States have possessed, at this time, a more copious metallic currency? The solution of this question, especially the latter branch of it, is vital to the whole inquiry.

It may, in the first place, be incidentally observed that the shipment of the national coins is not the real evil under which the country, in the case supposed, actually suffers. It is the one complained of generally, because it is a visible fact associated with that commercial distress which results from importing too freely, in proportion to the amount of exports. It may, however, be more correctly regarded as a remedy for the real evil, and a restraint on its progress. It is, perhaps, the only remedy that can be steadily relied on; it grows spontaneously out of the exigence, and is proportioned thereto.

The effect of diminishing the amount of bullion in that coin which constitutes the measure of value, it appears manifestly, is to advance the price of foreign coins; the premium on which, in the market, exposes, the most immediately, the deterioration of a measure of value. Bills of exchange will be, in like manner; advanced in price, estimated on the previous par. It must be equally plain that its effects will extend to every article between the shipment of which, and the exportation of the national coin, a merchant may be balancing to make his choice, when a remittance abroad is to be effected under a disadvantageous state of foreign commerce.

If the national coin, constituting the measure of value, had been made in any assignable proportion, say ten per cent. inferior in its weight of fine silver to our present coinage, the advance on foreign coins, bills, and produce, would have been in proportion, and all the relations of the question as to preference in making a remittance, would have been the same; the national coins would only have been, as they now are, among the last means resorted to in foreign remittances. They tend however to be employed, as they can be most efficient, and will be exported to some extent, when it is perceived that the bullion they contain, however small in proportion to that of other coins of which they are the measure, will pay more debt abroad than can be effected with those coins, with bills of exchange, or produce purchased, at existing rates, by the national coin at home.

The national coins, therefore, it appears, will expel the foreign under a seiniorage, and more promptly, perhaps to some extent, if the seiniorage be high; but when these have been expelled, our own coins must, in some proportion, follow them, if the exigence continue, and no seiniorage can protect them further.

The question still, however, occurs, Would not the amount of silver in our currency, at this time, have been greater under a seiniorage than according to our present system, and greater under a high seiniorage than a low one?

It is all but certain that the amount would have been no greater under a seiniorage of one per cent., operating from the commencement of the mint, and it can be rendered not a little probable that it would have been less by a higher seiniorage.

To possess a full metallic currency, consisting of a coin which constitutes the measure of value, and is of course a universal tender for all payments, requires not merely that the national coins should not be exported on slight emergencies, but that the bullion from which they are to be supplied shall come freely to the mint.

The mint was established in the year 1792. During the first twenty years of the intervening period, ending with 1811, foreign exchange was below the real par, so that no inducement existed to export specie in perference to buying bills. During nearly all that period, Spanish dollars commanded a premium of one to five per cent. for the purpose of the China trade; so that, in reference to Spanish dollars, which formed the efficient excess of

the metallic currency, the national coins were under the influence of a relation equivalent, in its effects, to a seiniorage of that range. Silver, moreover, was generally very abundant in the country, yet the national coins did not largely accumulate in the circulation. Silver was slowly offered for coinage. Few persons found adequate motives to induce them to incur the loss of bringing Spanish dollars to the mint. They were to the holder more available as foreign dollars than they would have become in coins of the United States. When the premium on Spanish dollars reached about four per cent., the dollar of the United States came into competition with them. This being about the extent to which they were underrated in China, their value as bullion for that market thus became equal to their use as coin in the purchase of Spanish dollars.

During the first ten years from the institution of the mint, ending with the year 1801, the amount of silver coined was, in round numbers, $1,574,000. Within the second period of ten years, ending with 1811, the amount was $4,858,000. In the third period, ending with 1821, the amount was $6,180,000. And within the last period of ten years, ending December 31, 1831, the amount was $18,325,000. During the last year alone it exceeded three millions of dollars.

Within the first two periods, the exportation of our national coins must have been very inconsiderable, for reasons before suggested. But the ten years ending with 1821, including the war, and the subsequent years of extreme disturbance in the currency, present a different aspect. An exhausting exportation of specie marked this period, the result of causes surmounting all imaginable control of any seiniorage, or other system of legislative restraint.

The exportation of our silver coins within the last period was not very important in amount. They have, during the greater part of that interval, been protected by foreign coins, which were preferred for exportation even at a small premium. Besides supplying this demand for remittance abroad, a large surplus of foreign coins has annually been sent to the mint for coinage. It is, on the whole, rendered exceedingly probable, on adequate data, that the residue of previous issues, which remained at the commencement of 1822, was greater than the amount which has been exported within the subsequent years, and that the silver coins of the United States, now remaining in our currency, exceed twenty-one millions of dollars.

One fact meriting notice, which is presented by this comparative view, is, that, previous to 1812, when there was no inducement to export our coins, bills being almost constantly below the true par, the issues from the mint were very trivial in amount: less than half a million of dollars annually, it appears, was added to our metallic currency in our own coins, even within the last half of this period, although the mint had been in action, and inviting deposites, during a previous period of ten years.

Another fact presented is also instructive, and more encouraging. During the last period of ten years, beginning with 1822, and ending with 1831, foreign exchange has been almost invariably above the true par, and frequently to such an extent as to make a remittance in silver preferable to that by bills. Spanish dollars, including Spanish American, have very frequently borne a small premium, for this purpose, of $\frac{1}{4}$ to $\frac{3}{4}$ per cent. Within this period, however, the exportation has fallen lightly on our silver coins, and the supply of silver for coinage has been nearly all the time copious. The twofold object, therefore, desired to be secured by a seiniorage, seems to have been attained by our present system under existing circumstances.

But it has just been seen that when Spanish dollars were at a premium of $\frac{1}{2}$ to 5 per cent. for a particular purpose, in regard to which our coins were deemed inferior, a consideration having precisely the effect of a seiniorage in its influence to restrain Spanish dollars from coming to the mint, few of those dollars were offered for coinage. It is also observable that when Spanish dollars rose for this particular application of them to 4 per cent., it became equal to the shipper whether he should ship our own dollars, or buy Spanish dollars with them at that disproportion. If, at that moment, a seiniorage of 1 per cent. had been directed to be taken from our silver coins, the premium on Spanish dollars would immediately have advanced to five; the new emissions would have been just as liable to be shipped along with Spanish dollars under this premium, as the previous issues were at four per cent., and the dollars previously coined would have accompanied them at a premium of 1 per cent. The President, in 1805, interposed more efficiently, by directing that the coinage of *dollars* should be suspended at the mint: this remedy met the particular exigence. The Chinese, through prejudice, undervalued the dollar; the lower denominations they refused.

Adverting to the facts of the last ten years, it appears that when Spanish dollars are at a premium of about $\frac{3}{4}$ per cent. for exportation to Europe, the general bullion market, it is about equal to the exporter whether these shall be shipped at this rate, or our silver coins substituted for them; the preference would probably depend on the circumstance of finding either class in convenient quantities, without trouble, or of a late emission, and therefore to be relied on as free from impurities. If at such a moment a seiniorage of one per cent. were ordered to be exacted, the premium estimated by the new emission, which will be the measure of value, instantly rises to $1\frac{3}{4}$ per cent., and the question of preference remains the same; the inefficiency of the procedure becomes apparent as to a protection of our own coins.

The conclusion from these views, which seems consonant to reason, and sustained by abundant analogies, is, that even a small premium on foreign coin, or seiniorage on that national coin which is the measure of value, restrains deposites in a proportional degree from coming to the mint, and that a higher seiniorage exerts no adequate influence to retain them in circulation.

It may therefore be reasonably inferred that the aggregate of the silver coins of the United States, now in our currency, is probably greater than it would have been if a seiniorage equal only to the expense of coinage had been, from the first establishment of the institution, exacted at the mint. The premium on foreign silver within the periods examined, it appears, has very sensibly restricted the amount of coinage; a seiniorage would have made the premium higher.

In the preceding illustrations, the Spanish dollar, under its various forms, has borne a prominent share. They constitute a large proportion of our deposites. The reasoning is in no way less applicable to bars of silver, or bullion in any other form. If foreign coins become the material for the mint to operate on, they become so as bullion. When a merchant is hesitating whether he shall send to the mint his importation of silver, consisting partly of Spanish dollars, and partly of silver in bars, or export them to Europe, and draw bills for the value, he knows that, in exporting them, they are alike available by weight as bullion. And, universally, it may be stated, that when, under any given regulation of our mint, foreign silver coins are repelled to a market where they are disposed of by weight, bars of silver of the same standard, being equally available in the same market, at the same estimate per ounce, will be equally disposed to leave us.

It will also occur that the remarks apply specifically to silver. This is for directness of illustration in part, but chiefly in order to retain the idea steadily in view that the coin proposed to be acted on is the measure of value,

according to which premium and price are regulated. Whenever this conception is neglected, all deductions from other premises are to be viewed with some distrust.

It seems, therefore, that no advantage is to be derived from a seiniorage on our silver coins which constitute the measure of value. A coin which is intended to perform a subordinate office in the currency, as the silver coinage of England, from which a seiniorage is exacted of 6 per cent., and which has no pretensions to be a measure of value, can be thus retained in the country. It is not liable to be exported, but imitations of it, of the same intrinsic value, are liable to be manufactured abroad, and added to the circulation. The accruing emolument is a consideration rendering the occurrence probable, and it is understood that it has, to a large extent, taken place. If the seiniorage, therefore, be intended to sustain the expense of the mint, it appears liable to defeat from this quarter, and in a manner subject to much irregularity. To make spurious imitations of the legal coin, exposes to the danger of detection; but when the character of any coinage is such that it offers an adequate profit on manufacturing the genuine coin, the control of the nation over its currency is thus liable to be interfered with, and, at all events, the intended profit to the public Treasury defeated.

On reveiwing the preceding remarks, it seems manifest that whatever charge is made on coinage should be made by a direct deduction of the proper per centage from the coins themselves, and that in relation to our silver coins, which are the measure of value, whatever may be the charge to be deducted, and whatever proportion of alloy shall be preferred, the quantity of fine silver should remain rigorously the same.

If this principle be assumed and maintained, that the quantity of fine silver in our silver coin shall remain unchanged, a charge for coinage will have no influence on the measure of value.

We may experiment on our gold coins without fear and with some resulting convenience: though a legal tender, they have never been a measure of value; and while kept from interfering with the measure in silver, there is no danger: but it is a grave question to disturb the quantity of fine metal in the silver coin.

The propriety of some charge, when the mint shall be in operation with a force competent to effect the payment of deposites, with a delay merely nominal, seems recommended by considerations of adequate weight, independently of the question as respects the public treasury.

If coinage were free from charge, and payment of the amount made without delay, artists would send their bullion to the mint for coinage, merely to procure its division into convenient portions of known fineness and weight. The merchant, also, while hesitating in regard to the exportation of his bullion, would find a convenience in sending it to the mint for the purpose of receiving it divested of all extraneous matter, and its weight and fineness verified; after which he would export it as before intended It consists, therefore, with a judicious regulation of the mint, that coinage should not be wholly free: a charge tends to protect the mint from deposites not designed to enter into the currency; the charge should, however, be reasonable, or deposites will be repelled from the mint.

It is important also that bullion, in our national coins, should be valued a little higher than in foreign coins, which constitute our principal deposite at the mint; if not, the national coins will be exported as freely as the foreign, for the bullion they contain: the difference, however, should not be inequitable, or bullion of that character will not be offered freely for coinage.

In relation to the latter principle, our existing mint regulations have effected all that seems necessary in that regard, by the proportion which the fine metal in our coins bears to that of the Spanish dollar.

The dollar of our coinage contains 371¼ grains of fine silver, which is about ½ per cent. below the average product of the Spanish and Spanish American dollars when deposited at the mint for coinage; so that the depositor of $100 of those coins will receive in return about $100 50 in coins of the United States.

This gain is not fully equivalent to the delay of coinage, which has generally, within recent years, been from forty to fifty days, and therefore individuals rarely bring those dollars to the mint: the principal depositors of silver in this form are the banks, and chiefly the Bank of the United States.

The effect of this small difference between our dollar and those foreign coins familiar to us by that name, which are the principal forms under which deposites of silver can be relied on, has been the chief cause, as it is confidently believed, of that auspicious promise which the result of the last few years and the aspects of the present time afford of filling our circulation with an abundant metallic currency from deposites spontaneously offered. This proportion was the result perhaps of inadvertence, through the want of skilful assayers; it is, however, singularly well fitted, under existing circumstances, to invite supplies of silver for coinage without the direct action of the Government.

During the period when our commerce with China exerted its peculiar influence in the case, the difference between our dollar and that of Spain had little effect to induce deposites of the latter at the mint; but that disturbing force appears to have been subjected effectually to the control of other influences and new equivalents, so that the various forms of the Spanish dollar, which, in the preceding remarks, are regarded as one family, have rarely, within recent years, commanded a premium above that which is due to the occasional irregularities of our commerce with Europe. In two instances within the two last years, deposites of Spanish dollars have been received at the mint direct from Canton, exceeding in amount $20,000: these, indeed, are special occurrences, but the indication coincides with other known facts and obvious tendencies.

This difference of about ½ per cent. between our dollar and that of Spain, as the honorable Mr. Wilde observed in his remarks on introducing his resolution, has had the effect of a seiniorage to that extent, of which the Government does not receive the benefit: certainly the direct and immediate benefit accrues to the depositor. It was in fact establishing a measure of value not precisely that which Mr. Hamilton had in view, but it could, under the circumstances, have had no effect as a new measure; it was for some years neither known nor suspected to be so; it was not, as you have noticed, observed instantly at the mint.

The peculiar value of this constitution of our dollar appears to rest on this very fact, that it is almost insensibly inferior to the Spanish dollar; so that those coins, for ordinary purposes, may be employed indiscriminately: it is only when their relation happens to be tested as forms of bullion, to be exported, or applied in the arts, that the difference becomes appreciable. The national coins then assume their rank as the controlling measure of the others, determine their premium, and, when this advances to about ¾ per cent., accompany them reluctantly abroad, diminishing at the same time their own tendency to withdraw from us, by arresting the advance of the premium thereon, and prices of other substitutes, as the currency, in which resides the measure of value, is contracted. At this point ordinarily the state of commercial exchange begins to recede, the national coins remain undisturbed, the foreign gradually reappear through other avenues, mingled to some extent in the circles of our currency, in company with our own coins, and thenceforward come freely to the mint, and assume the national costume.

One important characteristic of this nominal seiniorage, it appears, therefore, is, that it is too small to be obvious; our dollar, therefore, may associate with other coins of the same denomination in ordinary pursuits. Another characteristic of it is, the one before alluded to, that it accrues to the depositor, and therefore does not repel him from the mint. On full reflection, it appears to me manifest that this last condition is essential, and that, if any further diminution of the coin should be adopted, with a hope of thereby increasing the permanent mass of metallic currency, in like manner it should accrue to the depositor; if otherwise, bullion will not come spontaneously to the mint.

On the whole subject, it would seem that, having our unit of money and standard of value constituted with so much felicity of effect as to offer, under existing circumstances, a direct, sensible, and, as it appears, efficient inducement to bring to the mint that form of silver bullion which is most abundant and accessible, and to exert, also, a gentle but constant and controlling restraint on the export of the national coins, it must be wise to leave this feature of our system undisturbed.

Our dollar remaining undisturbed in its weight of fine silver, and a small charge being made at the mint for prompt payment, will, I apprehend, do all that would be expedient now in regard to our silver coins. The charge is light, and will be felt by individual depositors as being for a consideration altogether favorable. It will not in any sensible degree, it is presumed, cause deposites to be withheld, though the banks, our chief depositors, would find an interest in bearing the delay, rather than paying the discount for coinage.

There is, however, one point meriting consideration in regard to the foreign silver coins, in aid of the design of securing a copious metallic currency in coins of the United States. It is, that the former be not made a legal tender at a rate which would forbid their coming to the mint without loss. This has been adverted to before.

The act of Congress of April 2, 1792, establishing the mint, contemplated a charge, for prompt payment, of ½ per cent., leaving it, however, optional with the depositor to decline. The banks having generally been the sources from which bullion was received, this provision has rarely been carried into effect; and, in no instance, within recent years. The provision of the fourteenth section of the above act, which relates to this subject, would therefore require to be made positive.

The same allowance for prompt payment, it is presumed, would be applied to both gold and silver. It would be advisable that this new regulation should not take effect until sixty days from the passage of the act, as large deposites now occupy our vaults. The sum of $150,000 to $200,000, made available in the Bank of the United States for the purposes intended, would be sufficient even at first, and subsequently, perhaps, a less sum. A quantity of gold must, in the first instance, be procured on public account; but this, if the change of ratio takes place, will be accomplished at a trivial premium, or at par.

Prompt payment out of the dormant funds of the Government would be insensible to the public treasury. The deductions would, however, bear a very considerable proportion of the expense of the mint, and, together with the gain on the copper coinage, would, it is believed, limit the effective annual disbursement for the mint to a sum not exceeding $20,000; so that, if the appropriation were $30,000, the sum of $10,000, refunded out of the copper coinage on an average, would reduce the effective expense to the sum above mentioned. Any charge for coinage, which could be devised to devolve further the expense of the mint on the depositor, would have the effect to lessen the supply of bullion, and thus defeat the object, now so much desired, of expanding the metallic circulation. These estimates proceed on the assumption that the supply of bullion may be sufficient for an average coinage of $6,000,000 annually for the next ten years. The supply will not probably average this sum. Estimating the above amount, including wastage, at one per cent., viz., $60,000, the one-half per cent. charge at $30,000, and the supposed gain on copper at $10,000, would reduce the effective disbursement to $20,000. After ten years, when it may be supposed that the currency will be satisfactorily supplied with coin, other regulations adequate to sustain it might be devised in regard to the charge for coinage, if deemed judicious.

One remark on another topic—the expediency of making gold a tender in large payments, and silver a legal tender in small payments only, or the reverse. The first branch of this proposition, it is presumed, is merely a transient thought—an inquiry, not a recommendation. The conception would be fearful, if it were entertained. Our metallic currency is silver, exceeding, it is believed, $20,000,000 in our own coins, and, in all, probably $30,000,000. We have not now half a million in gold to form the basis of a currency in which countless millions in property and engagements are involved. The immediate export of our silver, in exchange for gold at a high premium, would be inevitable. The reverse proposed would derange nothing, but it does not appear that it could be in any way preferable to the present system of our currency. Gold is not well fitted for small payments. Even under the provision suggested, silver would probably be employed in preference.

The occasion seems opportune to express, very respectfully, again, my perfect conviction that it is of the most grave public concern that we abide by our silver coinage of its present intrinsic value as a tender in all payments, and ruling measure of value. Steadfast to this principle, gold may continue a general legal tender also, with perfect safety, and with probable convenience, its ratio to silver being so regulated as not to displace the latter. When its market demand is above the ratio it will bear a premium, and all parties interested will be secure of its equitable value. The letter of Mr. Gallatin, given in Mr. Ingham's report, is highly instructive in regard to the effects of such an adjustment in France.

That the divisions of our silver coin, less than the half dollar, should be a tender to a limited amount only, would be liable, it is conceived, to no exception, but might be regarded as improving our monetary system. This question, however, with some others, belongs to the revision of the general regulations of the mint, which have been alluded to before.

In regard to the expediency of a coinage of gold which shall be a legal tender only to the Government, and at rates fixed from time to time, it is not apparent that any special efficacy can be derived to this system by making the proposed coins different in weight or fineness from our present ordinary issues. The peculiarity relied on is, that the value at which these are received by the Government shall be publicly announced for the assurance of the otherwise uninformed, in regard to the rate at which they may safely receive the gold pieces. The object is to promote the diffusion of gold through the circulation; and it is probable that no gold pieces could be devised, more acceptable by their convenience, than the several denominations now familiar to us.

Information is given, weekly, through the public prints, of the rates paid for gold in our commercial cities, without the effect contemplated by this proposition; and it is derived from the same authority on which the Government would determine its periodical rates, viz., the dealers in coins, bullion, and exchange. The official confirmation of these rates, at given periods, is all of superior efficacy, which the new regulation appears to contain. It is not, however, my object to inquire into the extent

of its probable success, but to recommend a mode of effecting the experiment, without disturbing the ordinary arrangements of the mint.

It is suggested, therefore, that the gold coinage remain as at present, or be modified by the change contemplated by the committee. By a distinct regulation, to be adopted when the occasion shall arise, the proper officer may be authorized to declare, periodically, the rate at which the coins designated are received in payments due to the Government. The experiment can thus be made without defeating any other object, and may be suspended if it prove ineffectual. It may be that the readjustment of the relative value will render a resort to this expedient unnecessary, or other considerations may occur to induce a distrust of its success.

A few enactments, embraced within the scope of the original resolution on which the committee was raised, to be followed by a systematic code of regulations, which might be submitted early next session, would, it is believed, be the most beneficial procedure now. The enactments in view relate to the following subjects: The relative ratio of gold and silver; prompt payment of deposites at a charge of one-half per cent.; and the legal tender of certain foreign coins regulated, and the limitation thereof, in regard to all foreign coins, defined.

The above provisions would be somewhat experimental, and might bear very instructively on the legislation contemplated hereafter, when the effects may have been so far developed as to afford a safe guide in establishing a permanent system for the mint.

I have thus, conformably to your request, communicated freely the suggestions which occur to me on the subjects referred to the committee, having specially in view their relation to the mint. You will please accept them as intended to promote the interests confided to this institution.

With great respect, your obedient servant,

SAM. MOORE.

Hon. C. P. White, *House of Reps.*

In Senate, *June* 27, 1834.

Mr. Webster made the following report:

The Committee on Finance, to whom was referred, on the 25th instant, the bill from the House of Representatives entitled "A bill regulating the deposite of the money of the United States in certain local banks," have had the same under consideration, and are of opinion that, in its present form, the bill ought not to pass.

Its leading provisions are, that the Secretary of the Treasury shall employ State banks as depositories of the money of the United States, and that the banks at present employed shall continue to be depositories of the public money until new selections shall be made under the provisions of this bill. It is proposed that the bill, should it become a law, shall go into immediate operation, nor is there any limit to its duration.

It cannot fail to be seen that the passage of this bill, if not a legislative adoption of the act of removing the public moneys from the Bank of the United States by the Executive, and the disposition made of them by him in State banks, would be at least an acquiescence in that state of things which these proceedings of the Executive have produced.

The committee are not prepared to recommend the adoption of any such measure to the Senate.

By the sixteenth section of the "Act to incorporate the subscribers to the Bank of the United States," it is solemnly enacted and declared, in express terms, "that the deposites of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case, the Secretary of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session, the reasons of such order or direction."

By the twentieth section of the same act it is provided that, in consideration of the exclusive privileges and benefits conferred by the act, the bank should pay to the United States one million five hundred thousand dollars. This sum has been paid in the instalments required, and the Government of the United States has received and enjoyed its full benefit.

The committee have expressed the opinion, on a former occasion, that the custody or keeping of the public moneys was one of the benefits in consideration of which the bank paid the million and a half of dollars; and, also, undertook to render facilities of exchange to the Treasury. The correctness of this opinion, they suppose, cannot be reasonably doubted.

On the 1st of October last, the deposites of the public moneys were removed from the Bank of the United States, and the reasons for this removal were reported to Congress by the Secretary of the Treasury at the commencement of the present session. Those reasons have been considered by the Senate, and, after a discussion of almost unprecedented length, the Senate has decided, by a clear and unequivocal majority, that they are unsatisfactory and insufficient. It has reaffirmed this opinion, on a second occasion, by a majority of twenty-nine votes to sixteen; and it has passed a joint resolution directing the deposites to be made in the Bank of the United States and its branches, as heretofore, by a majority of twenty-eight votes to sixteen.

If it be true that the deposites have been removed without sufficient reason, it certainly is true that injustice has been done to the bank in a matter of private right and private property; and any bill which, like the present, disregarding the chartered rights of the bank, proposes a new custody for the public treasures, appears to the committee in the light of a sanction to injustice and illegality. The bank purchased the privilege of the public deposites for the whole term of its charter, and paid for the privilege a valuable consideration, both in money and stipulation for services. This right has not been surrendered; it has not been declared forfeited; and the charter of the bank has not yet expired. Until the charter shall expire, or until the right be surrendered or forfeited, the bank, in the opinion of the committee, is entitled to the enjoyment of the benefits secured to it by plain and solemn provisions in the law which gave it existence. The removal of the deposites, therefore, was a wrong done to the bank; the withholding them is a continuance of that wrong; and any confirmation either of the removal, or the further withholding, is, as it seems to the committee, a sanction of that wrong. This objection to the proposed bill appears to the committee to be insurmountable.

But there is another consideration of still higher importance to the country, if any thing can be of higher importance than the preservation of the plighted faith of the nation. In the judgment of the Senate, dangerous liberties have been taken with the constitution and the laws. On the 28th day of March, the Senate formally and solemnly resolved that, "in the late executive proceedings in relation to the public revenue, the President had assumed a power not conferred by the constitution and laws, but in derogation of both." These proceedings were the removal of the deposites, and the placing of the public moneys in those State banks where they now are, and where this bill proposes to continue and legalize their custody.

It is not to be concealed that a great question of constitutional power has arisen between the President and the Senate. That question has deeply agitated, and con-

tinues deeply to agitate, the whole country. In justification of his own conduct, and in opposition to the resolution of the Senate of the 28th of March, the President, on the 17th of April, transmitted a protest to the Senate. The Senate, after a full and free discussion of the doctrines of that paper, have resolved, by a majority of twenty-seven votes against sixteen, that it "asserts powers as belonging to the President which are inconsistent with the just authority of the two Houses of Congress, and inconsistent with the constitution of the United States." Driven by its sense of duty to the expression of these opinions, and ignorant neither of their high importance, nor the responsibility which belongs to their avowal and their support, the Senate has referred itself, and must refer itself for their correctness, to the judgment of the country. It appears to the committee that, before any measure is adopted for the permanent custody hereafter of the public treasures, the questions which their removal has created must be decided by the general judgment of the country; and that decision, so far as the Senate is concerned, it will of course cheerfully abide.

Has the public treasure been wrongfully withdrawn from the Bank of the United States?

Does the legal right of the bank to the custody of that treasure still remain?

Has the conduct of the Executive in the removal, and in the proceedings connected with it, been in derogation of the constitution and laws?

Has a violation both of the constitution and the laws taken place, which calls for correction and remedy?

On all these questions, in the most solemn and deliberate manner, the Senate has pronounced its solemn judgment in the affirmative; and it appears to the committee that, until the opinion of the country shall be ascertained, it cannot be expected of the Senate to agree to any measure which may legalize the present state of things, and appear to sanction past transactions.

The bill does not suggest any middle or third course; it proposes no custody for the public treasure, except precisely that which the Executive, after removing them from the Bank of the United States, has himself selected. The provisions are, that Congress shall take upon itself the duty and the responsibility of giving legal character to the selected depositories, prescribing only certain regulations for the future.

The time must come, indeed, whether the deposites be returned to the Bank of the United States or not, when legislative provision on the subject will become necessary, since the charter of the bank will expire in 1836; but the committee think it too early now to provide for the keeping of the public moneys after that time At present, that keeping lawfully belongs to the Bank of the United States, and will lawfully belong to it, unless it surrender or forfeit the right, until the expiration of its charter; and there is ample time, before that expiration, for making such provisions as may be deemed necessary for the period which shall ensue.

The committee do not all connect the present question with that of the renewal of the charter of the bank. As a question of constitutional right and legal power, it has nothing to do with the renewal of the charter. If we take it for granted that the bank is not to be continued beyond its present term, still it does exist till 1836; it does, till that time, hold all its rights; and the constitutionality of the proceedings of the President cannot be affected, in the slightest degree, by the renewal or non-renewal of its charter. The ground taken by the Senate, therefore, on these great and all-important questions, stands free and clear from all questions about the renewal of the bank. The questions which it has so anxiously considered, so freely discussed, and so solemnly decided, are constitutional questions—political questions—questions relating to the powers of the respective branches of Government, and nearly affecting the integrity and preservation of the constitution itself.

The Senate has the gratifying consolation of being conscious that it has in no way contributed to the present distressing and alarming state of things. The Senate has not sought to break in upon the authority of law; it has not interfered with the expressed will of the Legislature. On the contrary, its whole effort has been to maintain and to restore the law, and to continue the custody of the public moneys in the hands designated by the statute of Congress. The Senate has not removed the deposites; the Senate has not selected State banks; the Senate has done nothing to produce any change in that prosperous state of public affairs which existed on the 1st day of October. On the contrary, it has resisted changes; it has proclaimed its judgment against rash experiments; and it has borne its solemn and conscientious testimony against violations of constitution and law.

As to the particular provisions of this bill, supposing that this were the time for enacting a law for the safe-keeping of the public money after the Bank of the United States shall expire, the committee think them very deficient, and wholly unsatisfactory.

In the first place, the committee think that the public money ought not to be kept in any bank which is not made, by some formal and legal proceeding, always open to the examination of a committee of either House of Congress.

2. The deposite banks should pay an annual interest for the use of the deposites, since they pay no *bonus* or outright sum, nor render other adequate compensation for such use.

3. Provisions are necessary for regulating the distribution of deposites, and limiting the use of transfer checks. This is absolutely necessary, if it be intended that different parts of the country shall be placed on grounds of equality.

4. Express enactment should be inserted against any payment, in any form, by the deposite banks to persons employed or designated by the Executive to examine their condition, superintend their proceedings, or render any other service to the Executive Government not authorized by law.

5. The security to be given for the safe-keeping of the money should be carefully provided for, since many of the banks are inconsiderable in responsibility, and might nevertheless have, as the Bank of the Metropolis now has, an amount of public money in its custody three times as large as its whole capital.

These are heads of objection which have presented themselves to the committee in the few hours during which the measure has been under their consideration. They think the bill deficient in guards and securities; deficient in provisions for the fair rights and advantages of the Government; deficient in provisions for maintaining the just claims of different portions of the country, and deficient in all those checks and modes of control which are essentially necessary to remove the public moneys beyond Executive will, and to place them, substantially and truly, in a legislative custody. This part of the subject, however, the committee do not dwell upon, since, for reasons already stated, they do not recommend the adoption of any measure at present to meet the exigency which will arrive when the charter of the Bank of the United States shall expire. The committee are the less inclined to any such provision at present from the failure of the existing arrangement hitherto to answer the purposes proposed by it. After a trial of eight months, the system of employing State banks has not been found capable, at least in its present manner of operation, of satisfying the necessities of commerce, sustaining credit, and giving usual facilities to exchange. Thus far it has not been found practicable to maintain a wide and extensive circulation of the bills of local banks. In looking at the late returns of the Bank

of the Metropolis, signal evidence of this fact is seen. With deposites of Government money in its possession to an amount exceeding nine hundred thousand dollars, it does not sustain a circulation of one hundred thousand dollars; and its notes are known to be sold at a discount even at short distances from the capital. The public payments through this bank, thus situated at the seat of Government, are necessarily very large, and they are, of course, often made to persons who wish to take or transmit the money to distant parts of the country; but this cannot be done without loss. Heretofore, persons receiving sums of money of Government, at the seat of Government, have been able to receive checks and drafts, available without loss, in any other place in the country. The difficulty of buying or selling bills on distant places, which now exists here, or of transmitting funds without heavy loss, is abundant proof that the exchanges of the country are not sustained with ordinary convenience by the present mode of employing State banks. For this reason, therefore, as well as others already stated, the committee are not prepared to recommend the passage of the present bill.

The committee have directed their chairman, when the bill shall be called up, to move the following amendment, viz. Strike out all after the enacting clause, and insert the following words, viz.

"That all deposites of the money of the United States which may accrue or be received on and after the 1st day of August, A. D. 1834, shall be made with the Bank of the United States and its branches, in conformity with the provisions of the act entitled 'An act to incorporate the subscribers to the Bank of the United States,' approved the 10th of April, 1816."

SUPPLEMENTAL APPENDIX.

REASONS OF THE PRESIDENT,

Read to the Cabinet on the 18th of September, 1833.

Having carefully and anxiously considered all the facts and arguments which have been submitted to him, relative to a removal of the public deposites from the Bank of the United States, the President deems it his duty to communicate in this manner to his Cabinet the final conclusions of his own mind, and the reasons on which they are founded, in order to put them in durable form, and to prevent misconceptions.

The President's convictions of the dangerous tendencies of the Bank of the United States, since signally illustrated by its own acts, were so overpowering when he entered on the duties of Chief Magistrate, that he felt it his duty, notwithstanding the objections of the friends by whom he was surrounded, to avail himself of the first occasion to call the attention of Congress and the people to the question of its recharter. The opinions expressed in his annual message of December, 1829, were reiterated in those of December, 1830 and 1831, and in that of 1830 he threw out for consideration some suggestions in relation to a substitute. At the session of 1831–'2 an act was passed by a majority of both Houses of Congress rechartering the present bank, upon which the President felt it his duty to put his constitutional veto. In his message, returning that act, he repeated and enlarged upon the principles and views briefly asserted in his annual messages, declaring the bank to be, in his opinion, both inexpedient and unconstitutional, and announcing to his countrymen, very unequivocally, his firm determination never to sanction, by his approval, the continuance of that institution or the establishment of any other upon similar principles.

There are strong reasons for believing that the motive of the bank in asking for a recharter at that session of Congress, was to make it a leading question in the election of a President of the United States the ensuing November, and all steps deemed necessary were taken to procure from the people a reversal of the President's decision.

Although the charter was approaching its termination, and the bank was aware that it was the intention of the Government to use the public deposite as fast as it has accrued, in the payment of the public debt, yet did it extend its loans from January, 1831, to May, 1832, from $42,402,304 24 to $70,428,070 72, being an increase of $28,025,766 48, in sixteen months. It is confidently believed that the leading object of this immense extension of its loans was to bring as large a portion of the people as possible under its power and influence; and it has been disclosed that some of the largest sums were granted on very unusual terms to the conductors of the public press. In some of these cases, the motive was made manifest by the nominal or insufficient security taken for the loans, by the large amounts discounted, by the extraordinary time allowed for payment, and especially by the subsequent conduct of those receiving the accommodations.

Having taken these preliminary steps to obtain control over public opinion, the bank came into Congress and asked a new charter. The object avowed by many of the advocates of the bank, was to *put the President to the test*, that the country might know his final determination relative to the bank prior to the ensuing election. Many documents and articles were printed and circulated at the expense of the bank, to bring the people to a favorable decision upon its pretensions. Those whom the bank appears to have made its debtors for the special occasion, were warned of the ruin which awaited them, should the President be sustained, and attempts were made to alarm the whole people by painting the depression in the price of property and produce, and the general loss, inconvenience, and distress, which it was represented would immediately follow the re-election of the President in opposition to the bank.

Can it now be said that the question of a recharter of the bank was not decided at the election which ensued? Had the veto been equivocal, or had it not covered the whole ground—if it had merely taken exceptions to the details of the bill, or to the time of its passage—if it had not met the whole ground of constitutionality and expediency, then there might have been some plausibility for the allegation that the question was not decided by the people. It was to compel the President to take his stand, that the question was brought forward at that particular time. He met the challenge, willingly took the position into which his adversaries sought to force him, and frankly declared his unalterable opposition to the bank as being both unconstitutional and inexpedient. On that ground the case was argued to the people, and now that the people have sustained the President, notwithstanding the array of influence and power which was brought to bear upon him, it is too late, he confidently thinks, to say that the question has not been decided. Whatever may be the opinions of others, the President considers his re-election as a decision of the people against the bank. In the concluding paragraph of his veto message he said:

"I have now done my duty to my country. If sustained by my fellow-citizens, I shall be grateful and happy; if not, I shall find in the motives which impel me, ample grounds for contentment and peace."

He was sustained by a just people, and he desires to evince his gratitude by carrying into effect their decision, so far as it depends upon him.

Of all the substitutes for the present bank which have been suggested, none seems to have united any considera-

ble portion of the public in its favor. Most of them are liable to the same constitutional objections for which the present bank has been condemned, and perhaps to all there are strong objections on the score of expediency. In ridding the country of an irresponsible power which has attempted to control the Government, care must be taken not to unite the same power with the Executive branch. To give a President the control over the currency and the power over individuals now possessed by the Bank of the United States, even with the material difference that he is responsible to the people, would be as objectionable and as dangerous as to leave it as it is. Neither the one nor the other is necessary, and therefore ought not to be resorted to.

On the whole, the President considers it as conclusively settled, that the charter of the Bank of the United States will not be renewed, and he has no reasonable ground to believe that any substitute will be established. Being bound to regulate his course by the laws as they exist, and not to anticipate the interference of the Legislative power, for the purpose of framing new systems, it is proper for him seasonably to consider the means by which the services rendered by the Bank of the United States are to be performed after its charter shall expire.

The existing laws declare that "the deposites of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct, in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session, the reasons of such order or direction."

The power of the Secretary of the Treasury over the deposites is *unqualified.* The provision that he shall report his reasons to Congress is no limitation. Had it not been inserted, he would have been responsible to Congress, had he made a removal for any other than good reasons, and his responsibility now ceases, upon the rendition of sufficient ones to Congress The only object of the provision, is to make his reasons accessible to Congress, and enable that body the more readily to judge of their soundness and purity, and thereupon to make such further provision by law as the Legislative power may think proper in relation to the deposite of the public money. Those reasons may be very diversified. It was asserted by the Secretary of the Treasury without contradiction, as early as 1817, that he had power "to control the proceedings" of the Bank of the United States at any moment, "by changing the deposites to the State banks," should it pursue an illiberal course towards those institutions; that "the Secretary of the Treasury will always be disposed to support the credit of the State banks, and will invariably direct transfers from the deposites of the public money in aid of their legitimate exertions to maintain their credit;" and he asserted a right to employ the State banks when the Bank of the United States should refuse to receive on deposite the notes of such States banks as the public interest required should be received in payment of the public dues. In several instances he did transfer the public deposites to State banks, in the immediate vicinity of branches, for reasons connected only with the safety of those banks, the public convenience, and the interests of the Treasury.

If it was lawful for Mr. Crawford, the Secretary of the Treasury, at that time, to act on these principles, it will be difficult to discover any sound reason against the application of similar principles in still stronger cases. And it is a matter of surprise that a power which, in the infancy of the bank, was freely asserted as one of the ordinary and familiar duties of the Secretary of the Treasury, should now be gravely questioned, and attempts made to excite and alarm the public mind as if some new and unheard-of power was about to be usurped by the Executive branch of the Government.

It is but a little more than two and a half years to the termination of the charter of the present bank. It is considered as the decision of the country that it shall then cease to exist, and no man, the President believes, has reasonable ground for expectation that any other Bank of the United States will be created by Congress. To the Treasury Department is intrusted the safe keeping and faithful application of the public moneys. A plan of collection different from the present must therefore be introduced and put in complete operation before the dissolution of the present bank. When shall it be commenced? Shall no step be taken in this essential concern until the charter expires, and the Treasury finds itself without an agent, its accounts in confusion, with no depository for its funds, and the whole business of the Government deranged? or shall it be delayed until six months, or a year, or two years before the expiration of the charter? It is obvious that any new system which may be substituted in the place of the Bank of the United States, could not be suddenly carried into effect on the termination of its existence without serious inconvenience to the Government and the people. Its vast amount of notes are then to be redeemed and withdrawn from circulation, and its immense debt collected. These operations must be gradual, otherwise much suffering and distress will be brought upon the community. It ought to be not a work of months only, but of years, and the President thinks it cannot, with due attention to the interests of the people, be longer postponed. It is safer to begin it too soon than to delay it too long.

It is for the wisdom of Congress to decide upon the best substitute to be adopted in the place of the Bank of the United States; and the President would have felt himself relieved from a heavy and painful responsibility, if in the charter to the bank, Congress had reserved to itself the power of directing, at its pleasure, the public money to be elsewhere deposited, and had not devolved that power exclusively on one of the Executive Departments. It is useless now to inquire why this high and important power was surrendered by those who are peculiarly and appropriately the guardians of the public money. Perhaps it was an oversight. But as the President presumes that the charter to the bank is to be considered as a contract on the part of the Government, it is not now in the power of Congress to disregard its stipulations; and by the terms of that contract the public money is to be deposited in the bank during the continuance of its charter, unless the Secretary of the Treasury shall otherwise direct. Unless, therefore, the Secretary of the Treasury first acts, Congress have no power over the subject, for they cannot add a new clause to the charter or strike one out of it without the consent of the bank; and consequently the public money must remain in that institution to the last hour of its existence, unless the Secretary of the Treasury shall remove it at an earlier day. The responsibility is thus thrown upon the Executive branch of the Government of deciding how long before the expiration of the charter the public interest will require the deposites to be placed elsewhere. And although, according to the frame and principle of our Government, this decision would seem more properly to belong to the Legislative power, yet as the law has imposed it upon the Executive department, the duty ought to be faithfully and firmly met, and the decision made and executed upon the best lights that can be obtained, and the best judgment that can be formed. It would ill become the Executive branch of the Government to shrink from any duty which the law imposes on it, to fix upon others the responsibility which justly belongs to itself. And while the President anxiously wishes to abstain from the exercise of doubtful powers, and to avoid all interference with the

rights and duties of others, he must yet, with unshaken constancy, discharge his own obligations, and cannot allow himself to turn aside, in order to avoid any responsibility which the high trust with which he has been honored requires him to encounter; and it being the duty of one of the Executive Departments to decide in the first instance, subject to the future action of the Legislative power, whether the public deposites shall remain in the Bank of the United States until the end of its existence, or be withdrawn sometime before, the President has felt himself bound to examine the question carefully and deliberately, in order to make up his judgment on the subject: and in his opinion the near approach of the termination of the charter, and the public considerations heretofore mentioned, are of themselves amply sufficient to justify the removal of the deposites without reference to the conduct of the bank, or their safety in its keeping.

But in the conduct of the bank may be found other reasons, very imperative in their character, and which require prompt action. Developments have been made from time to time of its faithlessness as a public agent, its misapplication of public funds, its interference in elections, its efforts, by the machinery of committees, to deprive the Government directors of a full knowledge of its concerns, and above all, its flagrant misconduct as recently and unexpectedly disclosed, in placing all the funds of the bank, including the money of the Government, at the disposition of the president of the bank, as means of operating upon public opinion and procuring a new charter without requiring him to render a voucher for their disbursement. A brief recapitulation of the facts which justify these charges and which have come to the knowledge of the public and the President, will, he thinks, remove every reasonable doubt as to the course which it is now the duty of the President to pursue.

We have seen that in sixteen months, ending in May, 1832, the bank had extended its loans more than 28,000,000 dollars, although it knew the Government intended to appropriate most of its large deposite during that year in payment of the public debt. It was in May, 1832, that its loans arrived at the maximum, and in the preceding March, so sensible was the bank that it would not be able to pay over the public deposite when it would be required by the Government, that it commenced a secret negotiation without the approbation or knowledge of the Government, with the agents, for about $2,700,000 of the three per cent. stocks held in Holland, with a view of inducing them not to come forward for payment for one or more years after notice should be given by the Treasury Department. This arrangement would have enabled the bank to keep and use during that time the public money set apart for the payment of these stocks.

After this negotiation had commenced, the Secretary of the Treasury informed the bank that it was his intention to pay off one-half of the three per cents. on the first of the succeeding July, which amounted to about $6,500,000. The president of the bank, although the committee of investigation was then looking into its affairs at Philadelphia, came immediately to Washington, and upon representing that the bank was desirous of accommodating the importing merchants at New York (which it failed to do) and undertaking to pay the interest itself, procured the consent of the Secretary, after consultation with the President, to postpone the payment until the succeeding first of October.

Conscious that at the end of that quarter the bank would not be able to pay over the deposites and that further indulgence was not to be expected of the Government, an agent was despatched to England secretly to negotiate with the holders of the public debt in Europe, and induce them by the offer of an equal or higher interest than that paid by the Government, to hold back their claims for one year, during which, the bank expected thus to retain the use of $5,000,000 of the public money, which the Government should set apart for the payment of that debt. The agent made an arrangement on terms, in part, which were in direct violation of the charter of the bank; and when some incidents connected with this secret negotiation accidentally came to the knowledge of the public and the Government, then and not before, so much of it as was palpably in violation of the charter was disavowed! A modification of the rest was attempted with the view of getting the certificates without payment of the money, and thus absolving the Government from its liability to the holders. In this scheme the bank was partially successful, but to this day the certificates of a portion of these stocks have not been paid, and the bank retains the use of the money.

This effort to thwart the Government in the payment of the public debt, that it might retain the public money to be used for their private interests, palliated by pretences notoriously unfounded and insincere, would have justified the instant withdrawal of the public deposites. The negotiation itself rendered doubtful the ability of the bank to meet the demands of the Treasury, and the misrepresentations by which it was attempted to be justified proved that no reliance could be placed upon its allegations.

If the question of a removal of the deposites presented itself to the Executive in the same attitude that it appeared before the House of Representatives at their last session, their resolution in relation to the safety of the deposites would be entitled to more weight, although the decision of the question of removal has been confided by law to another department of the Government. But the question now occurs, attended by other circumstances and new disclosures of the most serious import. It is true that, in the message of the President which produced this inquiry and resolution on the part of the House of Representatives, it was his object to obtain the aid of that body in making a thorough examination into the conduct and condition of the bank and its branches, in order to enable the Executive department to decide whether the public money was longer safe in its hands. The limited power of the Secretary of the Treasury over the subject disabled him from making the investigation as fully and satisfactorily as it could be done by a committee of the House of Representatives, and hence the President desired the assistance of Congress to obtain for the Treasury Department a full knowledge of all the facts which were necessary to guide his judgment. But it was not his purpose, as the language of his message will show, to ask the representatives of the people to assume a responsibility which did not belong to them, and relieve the Executive branch of the Government from the duty which the law had imposed upon it. It is due to the President that his object in that proceeding should be distinctly understood, and that he should acquit himself of all suspicion of seeking to escape from the performance of his own duties, or of desiring to interpose another body between himself and the people in order to avoid a measure which he is called upon to meet. But although, as an act of justice to himself, he disclaims any design of soliciting the opinion of the House of Representatives in relation to his own duties, in order to shelter himself from responsibility under the sanction of their counsel, yet he is at all times ready to listen to the suggestions of the representatives of the people, whether given voluntarily or upon solicitation, and to consider them with the profound respect to which all will admit that they are justly entitled. Whatever may be the consequences, however, to himself, he must finally form his own judgment where the constitution and the law makes it his duty to decide, and must act accordingly; and he is bound to suppose that such a course on his part will never be regarded by that elevated body as a mark of disrespect to itself; but

that they will, on the contrary, esteem it the strongest evidence he can give of his fixed resolution conscientiously to discharge his duty to them and the country.

A new state of things has, however, arisen since the close of the last session of Congress, and evidence has since been laid before the President, which he is persuaded would have led the House of Representatives to a different conclusion, if it had come to their knowledge. The fact that the bank controls, and in some cases substantially *owns*, and by its money *supports* some of the leading presses of the country, is now more clearly established. Editors to whom it loaned extravagant sums in 1831 and 1832, on unusual time and nominal security, have since turned out to be insolvent, and to others apparently in no better condition, accommodations still more extravagant, on terms more unusual, and some without any security, have also been heedlessly granted.

The allegation which has so often circulated through these channels that the Treasury was bankrupt and the bank was sustaining it, when, for many years there has not been less, on an average, than six millions of public money in that institution, might be passed over as a harmless misrepresentation; but when it is attempted, by substantial acts, to impair the credit of the Government and tarnish the honor of the country, such charges require more serious attention. With six millions of public money in its vaults, after having had the use of from five to twelve millions for nine years, without interest, it became the purchaser of a bill drawn by our Government on that of France for about 900,000 dollars, being the first instalment of the French indemnity. The purchase money was left in the use of the bank, being simply added to the Treasury deposite. The bank sold the bill in England, and the holder sent it to France for collection, and arrangements not having been made by the French Government for its payment, it was taken up by the agents of the bank in Paris, with the funds of the bank in their hands. Under these circumstances it has, through its organs, openly assailed the credit of the Government; and has actually made and persists in a demand of fifteen per cent. or $158,842 77 as damages, when no damage, or none beyond some trifling expense, has in fact been sustained, and when the bank had in its own possession on deposite, several millions of the public money which it was then using for its own profit. Is a fiscal agent to the Government, which thus seeks to enrich itself at the expense of the public, worthy of further trust?

There are other important facts not in the contemplation of the House of Representatives, or not known to the members at the time they voted for the resolution.

Although the charter and the rules of the bank both declare that "not less than seven directors" shall be necessary to the transaction of business, yet the most important business, even that of granting discounts to any extent, is intrusted to a committee of five members who do not report to the board.

To cut off all means of communication with the Government in relation to its most important acts, at the commencement of the present year, not one of the Government directors was placed on any one committee. And although since, by an unusual remodelling of those bodies, some of those directors have been placed on some of the committees, they are yet entirely excluded from the committee of exchange, through which the greatest and most objectionable loans have been made.

When the Government directors made an effort to bring back the business of the bank to the board, in obedience to the charter and the existing regulations, the board not only overruled their attempt, but altered the rule so as to make it conform to the practice, in direct violation of one of the most important provisions of the charter which gave them existence.

It has long been known that the president of the bank, by his single will, originates and executes many of the most important measures connected with the management and credit of the bank, and that the committee, as well as the board of directors, are left in entire ignorance of many acts done, and correspondence carried on, in their names, and apparently under their authority. The fact has been recently disclosed, that an unlimited discretion has been, and is now, vested in the president of the bank to expend its funds in payment for preparing and circulating articles, and purchasing pamphlets and newspapers, calculated by their contents to operate on elections and secure a renewal of its charter. It appears from the official report of the public directors, that on the 30th November, 1830, the president submitted to the board an article published in the American Quarterly Review, containing favorable notices of the bank, and suggested the expediency of giving it a wider circulation at the expense of the bank; whereupon the board passed the following resolution, viz:

"*Resolved*, That the president be authorized to take such measures in regard to the circulation of the contents of the said article, either in whole or in part, as he may deem most for the interest of the bank."

By an entry in the minutes of the bank, dated March 11, 1831, it appears that the president had not only caused a large edition of that article to be issued, but had also, before the resolution of 30th November was adopted, procured to be printed and widely circulated, numerous copies of the reports of General Smith and Mr. McDuffie in favor of the bank, and on that day he suggested the expediency of extending his power to the printing of other articles which might subserve the purposes of the institution. Whereupon the following resolution was adopted, viz:

"*Resolved*, That the president is hereby authorized to cause to be prepared and circulated, such documents and papers as may communicate to the people information in regard to the nature and operations of the bank."

The expenditures purporting to have been made under authority of these resolutions, during the years 1831 and 1832, were about $80,000. For a portion of those expenditures, vouchers were rendered, from which it appears that they were incurred in the purchase of some hundred thousand copies of newspapers, reports and speeches made in Congress, reviews of the veto message, and reviews of speeches against the bank, &c. For another large portion, no vouchers whatever were rendered, but the various sums were paid on orders of the president of the bank, making reference to the resolution of the 11th of March, 1831.

On ascertaining these facts, and perceiving that expenditures of a similar character were still continued, the Government directors, a few weeks ago, offered a resolution in the board calling for a specific account of these expenditures, showing the objects to which they had been applied, and the persons to whom the money had been paid. This reasonable proposition was voted down.

They also offered a resolution rescinding the resolutions of November, 1830, and March, 1831. This also was rejected.

Not content with thus refusing to recall the obnoxious power, or even to require such an account of the expenditure as would show whether the money of the bank had in fact been applied to the objects contemplated by those resolutions, as obnoxious as they were, the board renewed the power already conferred, and even enjoined renewed attention to its exercise, by adopting the following, in lieu of the propositions submitted by the Government directors, viz:

"*Resolved*, That the board have confidence in the wisdom and integrity of the president, and in the propriety of the resolutions of 30th November, 1830, and 11th March, 1831, and entertain a full conviction of the neces-

sity of a renewed attention to the object of those resolutions, and that the president be authorized and requested to continue his exertions for the promotion of said object."

Taken in connexion with the nature of the expenditures heretofore made, as recently disclosed, which the board not only tolerate, but approve, this resolution puts the funds of the bank at the disposition of the president for the purpose of employing the whole press of the country in the service of the bank, to hire writers and newspapers, and to pay out such sums as he pleases, to what persons and for what services he pleases, without the responsibility of rendering any specific account. The bank is thus converted into a vast electioneering engine with means to embroil the country in deadly feuds, and, under cover of expenditures, in themselves improper, extend its corruption through all the ramifications of society.

Some of the items for which accounts have been rendered show the construction which has been given to the resolutions and the way in which the power it confers has been exerted. The money has not been expended merely in the publication and distribution of speeches, reports of committees, or articles written for the purpose of showing the constitutionality or usefulness of the bank, but publications have been prepared and extensively circulated, containing the grossest invectives against the officers of the Government; and the money which belongs to the stockholders and to the publ c has been freely applied in efforts to degrade, in public estimation, those who were supposed to be instrumental in resisting the wishes of this grasping and dangerous institution. As the president of the bank has not been required to settle his accounts, no one but himself knows how much more than the sum already mentioned may have been squandered, and for which a credit may hereafter be claimed in his account under this most extraordinary resolution. With these facts before us, can we be surprised at the torrent of abuse incessantly poured out against all who are supposed to stand in the way of the cupidity or ambition of the Bank of the United States? Can we be surprised at sudden and unexpected changes of opinion in favor of an institution which has millions to lavish and avows its determination not to spare its means when they are necessary to accomplish its purposes? The refusal to render an account of the manner in which a part of the money expended has been applied, gives just cause for the suspicion that it has been used for purposes which it is not deemed prudent to expose to the eyes of an intelligent and vir uous people. Those who act justly do not shun the light, nor do they refuse explanations when the propriety of their conduct is brought into question.

With these facts before him, in an official report from the Government directors, the President would feel that he was not only responsible for all the abuses and corruptions the bank has committed, or may commit, but almost an accomplice in a conspiracy against that Government which he has sworn honestly to administer, if he did not take every step within his constitutional and legal power likely to be efficient in putting an end to these enormities. If it be possible, within the scope of human affairs, to find a reason for removing the Government deposites and leaving the bank to its own resource for the means of effecting its criminal designs, we have it here. Was it expected, when the moneys of the United States were directed to be placed in that bank, that they would be put under the control of one man, empowered to spend millions without rendering a voucher or specifying the object? Can they be considered safe, with the evidence before us that tens of thousands have been spent for highly improper if not corrupt purposes, and that the same motive may lead to the expenditure of hundreds of thousands and even millions more? And can we justify ourselves to the people by longer lending to it the money and power of the Government, to be employed for such purposes?

It has been alleged by some as an objection to the removal of the deposites, that the bank has the power, and in that event will have the disposition to destroy the State banks employed by the Government, and bring distress upon the country. It has been the fortune of the President to encounter dangers which were represented as equally alarming, and he has seen them vanish before resolution and energy. Pictures equally appalling were paraded before him when this bank came to demand a new charter. But what was the result? Has the country been ruined or even distressed? Was it ever more prosperous than since that act? The President verily believes the bank has not the power to produce the calamities its friends threaten. The funds of the Government will not be annihilated by being transferred. They will immediately be issued for the benefit of trade; and if the Bank of the United States curtail its loans, the State banks, strengthened by the public deposites, will extend theirs. What comes in through one bank will go out through others, and the equilibrium will be preserved. Should the bank, for the mere purpose of producing distress, press its debtors more heavily than some of them can bear, the consequences will recoil upon itself, and in the attempts to embarrass the country, it will only bring loss and ruin upon the holders of its own stock. But if the President believed the bank possessed all the power which has been attributed to it, his determination would only be rendered the more inflexible. If, indeed, this corporation now holds in its hands the happiness and prosperity of the American people, it is high time to take the alarm. If the despotism be already upon us, and our only safety is in the mercy of the despot, recent developments in relation to his designs and the means he employs, show how necessary it is to shake it off. The struggle can never come with less distress to the people, or under more favorable auspices, than at the present moment.

All doubt as to the willingness of the State banks to undertake the service of the Government, to the same extent, and on the same terms, as it is now performed by the Bank of the United States, is put to rest by the report of the agent recently employed to collect information; and from that willingness, their own safety in the operation may be confidently inferred. Knowing their own resources better than they can be known by others, it is not to be supposed that they would be willing to place themselves in a situation which they cannot occupy without danger of annihilation or embarrassment. The only consideration applies to the safety of the public funds, if deposited in those institutions. And when it is seen that the directors of many of them are not only willing to pledge the character and capital of the corporations in giving success to this measure, but also their own property and reputation, we cannot doubt that they, at least, believe the public deposites would be safe in their management. The President thinks that these facts and circumstances afford as strong a guarantee as can be had in human affairs, for the safety of the public funds, and the practicability of a new system of collection and disbursement through the agency of the State banks.

From all these considerations the President thinks that the State banks ought immediately to be employed in the collection and disbursement of the public revenue, and the funds now in the Bank of the United States drawn out with all convenient despatch. The safety of the public moneys, if deposited in the State banks, must be secured beyond all reasonable doubts: but the extent and nature of the security, in addition to their capital, if any be deemed necessary, is a subject of detail to which the Treasury Department will undoubtedly give its anxious

attention. The banks to be employed must remit the moneys of the Government without charge, as the Bank of the United States now does; must render all the services which that bank now performs; must keep the Government advised of their situation by periodical returns; in fine, in any arrangement with the State banks, the Government must not, in any respect, be placed on a worse footing than it now is. The President is happy to perceive, by the report of the agent, that the banks which he has consulted, have, in general, consented to perform the service on these terms, and that those in New York have further agreed to make payments in London without other charge than the mere cost of the bills of exchange.

It should also be enjoined upon any banks which may be employed, that it will be expected of them to facilitate domestic exchanges for the benefit of internal commerce; to grant all reasonable facilities to the payers of the revenue; to exercise the utmost liberality towards the other State banks; and do nothing uselessly to embarrass the Bank of the United States.

As one of the most serious objections to the Bank of the United States is the power which it concentrates, care must be taken in finding other agents for the service of the Treasury, not to raise up another power equally formidable. Although it would probably be impossible to produce such a result by any organization of the State banks which could be devised—yet it is desirable to avoid even the appearance. To this end it would be expedient to assume no more power over them, and interfere no more in their affairs, than might be absolutely necessary to the security of the public deposite, and the faithful performance of their duties as agents of the Treasury. Any interference by them in the political contests of the country, with a view to influence elections, ought, in the opinion of the President, to be followed by an immediate discharge from the public service.

It is the desire of the President that the control of the banks and the currency shall as far as possible be entirely separated from the political power of the country, as well as wrested from an institution which has already attempted to subject the Government to its will. In his opinion, the action of the General Government on this subject ought not to extend beyond the grant in the constitution, which only authorizes Congress "to coin money and regulate the value thereof;" all else belongs to the States and the people, and must be regulated by public opinion and the interests of trade.

In conclusion, the President must be permitted to remark that he looks upon the pending question as of higher consideration than the mere transfer of a sum of money from one bank to another. Its decision may affect the character of our Government for ages to come. Should the bank be suffered longer to use the public moneys in the accomplishment of its purposes, with the proofs of its faithlessness and corruption before our eyes, the patriotic among our citizens will despair of success in struggling against its power; and we shall be responsible for entailing it upon our country forever. Viewing it as a question of transcendent importance, both in the principles and consequences it involves, the President could not, in justice to the responsibility which he owes to the country, refrain from pressing upon the Secretary of the Treasury his view of the considerations which impel to immediate action. Upon him has been devolved by the constitution and the suffrages of the American people, the duty of superintending the operation of the Executive departments of the Government, and seeing that the laws are faithfully executed. In the performance of this high trust, it is his undoubted right to express to those whom the laws and his own choice have made his associates in the administration of the Government, his opinion of their duties under circumstances as they arise. It is this right which he now exercises. Far be it from him to expect or require that any member of the Cabinet should, at his request, order, or dictation, do any act which he believes unlawful, or in his conscience condemns. From them, and from his fellow-citizens in general, he desires only that aid and support which their reason approves and their conscience sanctions.

In the remarks he has made on this all-important question, he trusts the Secretary of the Treasury will see only the frank and respectful declarations of the opinions which the President has formed on a measure of great national interest, deeply affecting the character and usefulness of his administration; and not a spirit of dictation, which the President would be as careful to avoid as ready to resist. Happy will he be, if the facts now disclosed produce uniformity of opinion and unity of action among the members of the administration,

The President again repeats that he begs his Cabinet to consider the proposed measure as his own, in the support of which he shall require no one of them to make a sacrifice of opinion or principle. Its responsibility has been assumed, after the most mature deliberation and reflection, as necessary to preserve the morals of the people, the freedom of the press, and the purity of the elective franchise, without which all will unite in saying that the blood and treasure expended by our forefathers in the establishment of our happy system of Government will have been vain and fruitless. Under these convictions, he feels that a measure so important to the American people cannot be commenced too soon; and he therefore names the first day of October next as a period proper for the change of the deposites, or sooner, provided the necessary arrangements with the State banks can be made.

ANDREW JACKSON.

REPORT OF A COMMITTEE OF DIRECTORS
of the Bank of the United States.

The committee to whom was referred, on the 24th of September, a paper signed "Andrew Jackson," purporting to have been read to a Cabinet on the 18th, and also another paper, signed "H. D. Gilpin, John T. Sullivan, Peter Wager, and Hugh McElderry," bearing date August 19th, 1833—with instructions to consider the same, and report to the Board "whether any, and what steps may be necessary on the part of the Board in consequence of the publication of said letter and report," beg leave to state—

That they have carefully examined these papers, and will now proceed to report the result of their reflections in regard to them.

In order, however, to render them more intelligible, it will be proper to recall to the attention of the Board the actual relation which the bank has for some years past borne to the Executive.

Since the establishment of the institution it has devoted itself anxiously and exclusively to the purposes of its creation—the restoration of the currency, the maintenance of the general credit, and the accommodation of the internal and foreign trade of the country. That it has not failed in these objects—that it has indeed realized more than the anticipations of the most sanguine, is attested by all parts of the community. It was in the midst of this career of inoffensive usefulness, when, soon after the accession of power of the present Executive, the purpose was distinctly revealed that other duties than those to the country were required—and that it was necessary for the bank, in administering its affairs, to consult the political views of those who had now obtained the ascendency in the Executive. It is understood that soon after that event, a meeting was held in Washington of the principal chiefs, to consider the means of perpetuating their new authority, and the possession of the bank was among the most prominent objects of the par-

ties assembled. The first open manifestation of this purpose was in June, 1829, when a concerted effort was made by the Executive officers to interfere in the election of the Board of Directors at Portsmouth. At the head of this attempt, was Mr. Levi Woodbury, now a member of the present Cabinet at Washington, who did not hesitate to avow, in a letter to the Secretary of the Treasury, which, though marked "confidential," was subsequently ordered to be published by the Committee of Investigation in 1832—that he wished the interference of the Government to remove the President of the Branch at Portsmouth, of whom he says—

"*The new President, Jeremiah Mason, is a particular friend of Mr. Webster, and his political character is doubtless well known to you*"—and he requests the Secretary of the Treasury "*to communicate with some of the Directors of the Mother Bank in favor of such change.*"

This letter of Mr. Woodbury was transmitted to the bank by the Secretary of the Treasury, who stated that "from some expressions in his letter, it may be inferred that it is partly founded on a supposed application of the influence of the bank, with a view to political effect"—in consequence of which, he deemed it his duty to present it to the bank, "*with the views of the administration in relation to it.*" At the same time, Mr. Isaac Hill, acting as the Comptroller of the Treasury, until rejected by the Senate, and now a Senator of the United States, sent a memorial from the members of his political party in the Legislature of New Hampshire, requesting the removal of Mr. Mason. In another communication presented to the bank, he gave it as his opinion, that no measure short of Mr. Mason's removal would tend "*to reconcile the people of New Hampshire to the bank,*" and that the friends of General Jackson in New Hampshire have had too much reason to complain of the management of the branch at Portsmouth. Finally, the Secretary of War ordered the transfer of the pension fund from the Branch Bank at Portsmouth to another bank in Concord—an act so obviously in violation of the laws, that it was first resisted by the bank, and then retracted by the Secretary.

It became then manifest to the bank, that there was a combined effort to render the institution subservient to political purposes; and that it was necessary to come to some immediate and distinct understanding of its rights and duties. This was done in the correspondence of the president of the bank with the Secretary of the Treasury, of which the following passages will indicate the general purport:

"Presuming that we have rightly apprehended your views, and fearful that the silence of the bank might be hereafter misconstrued into an acquiescence in them, I deem it my duty to state to you, in a manner perfectly respectful to your official and personal character, yet so clear as to leave no possibility of misconception, that the Board of Directors of the Bank of the United States, and the Boards of Directors of the Branches of the Bank of the United States, *acknowledge not the slightest responsibility of any description whatsoever to the Secretary of the Treasury touching the political conduct of their officers, that being a subject on which they never consult, and never desire to know the views of any Administration.*"

Again: "Accordingly the act of Congress simply declares, 'that, for the management of the affairs of the said corporation, there shall be twenty-five Directors.' When these are chosen, the whole administration of the bank is committed to their exclusive care. *Their responsibility for the management of it is to Congress, and to Congress alone: but no Executive officer of the Government, from the President of the United States downwards, has the slightest authority to interfere in it; and there can be no more warrant for suggesting the views of the Administration to the Bank of the United States than to the Supreme Court of the* [illegible]"

Finally: "*For the bank, which has specific duties to perform, and which belongs to the country and not to any party, there is but one course of honor or of safety. Whenever its duties come in conflict with the spirit of party, it should not compromise with it, nor capitulate to it, but resist it—resist it openly and fearlessly. In this its interest concurs with its duty, for it will be found at last, such is the good sense of the country, that the best mode of satisfying all parties is to disregard them all.*"

These extracts reveal the whole secret of the hostility to the bank of those who, finding it impossible to bend it to their purposes, have resolved to break it. For this purpose, all the poisoned weapons of political warfare have, for the last four years, been unsparingly and unceasingly employed against the institution. Thus far their efforts have failed; they have been defeated before Congress, and discountenanced by the community. But now, being relieved from the presence of Congress, and the legal guardian of the public revenue being removed, they have ventured on this last act of violence.

To justify this measure, is the purpose of the paper signed "Andrew Jackson." Of the paper itself, and of the individual who has signed it, the committee find it difficult to speak with the plainness by which alone such a document, from such a source, should be described, without wounding their own self-respect, and violating the consideration which all American citizens must feel for the chief magistracy of their country. Subduing, however, their feelings, and their language down to that respectful tone which is due to the office, they will proceed to examine the history of this measure, its character, and the pretexts offered in palliation of it. Of these in their order:

1st. It would appear from its contents, and from other sources of information, that the President had a meeting of what is called the Cabinet, on Wednesday, the 18th of September, and there read this paper. Finding that it made no impression on the majority of persons assembled, the subject was postponed, and in the mean time this document was put into the newspapers. It was obviously published for two reasons. The first was to influence the members of the Cabinet by bringing to bear upon their immediate decision the first public impression excited by misrepresentations, which the objects of them could not refute in time—the second was, by the same excitement, to affect the approaching elections in Pennsylvania, Maryland, and New Jersey. The first design is apparent from the fate which has befallen these counsellors. Whilst something was hoped from their fears, it was expedient to flatter them, keeping in reserve behind these blandishments, the power to punish disobedience. "By the terms of the charter," the President says, "the public money is to be deposited in the bank during the continuance of its charter, unless the *Secretary of the Treasury* shall otherwise direct."—"Unless, therefore, the *Secretary of the Treasury first acts*, Congress have no power over the subject, and consequently the public money must remain in that institution till the last hour of its existence, unless the *Secretary of the Treasury* shall remove it at an earlier day;" and again, "the power of the *Secretary of the Treasury* over the deposites is *unqualified.*"

Having thus argued the Secretary of the Treasury into an exclusive control of the deposites, the President proceeds to give his reasons why the Secretary should remove them, concluding with this remark: "*Far be it from him to expect or require that any member of the Cabinet should at his request, order, or dictation, perform any act which he believes unlawful, or in his conscience condemns.*" Yet notwithstanding these expressions of humility, the moment the Secretary of the Treasury dares to resist this intrusion into his Department, and refuses to do what "his conscience condemns," he is immediately dismissed from his [illegible] announced in the official gazette as a "refrac-

tory subordinate." The same official announces to the other two offending ministers, "that however he may regret the difference of opinion," the President still thinks "that the measure is one upon which the members *may* conscientiously differ from the President and from each other;" that is to say, that they are not yet to be dismissed for expressing their opinions, the President being appeased by the sacrifice of the most contumacious of the opposition.

Its purpose to influence the elections is attested by the triumphant exultation of the official gazette, that—

"We have received intelligence which authorizes the belief that, in the late election in Pennsylvania, the Legislature of that State has undergone a change which will give the Jackson party a majority of two-thirds, and the same result has been accomplished in Maryland. We learn from sources to be relied on that the success of the Jackson ticket in some of the Anti-Jackson counties in Maryland, was secured by the late expositions of the corruptions of the bank, read by the President to his Cabinet—and we have no doubt that it had its effect on all the recent elections."

2d. The indelicacy of the form of these proceedings corresponds well with the substance of them, which is equally in violation of the rights of the bank and the laws of the country.

The Bank of the United States was chartered by Congress for certain national purposes; and as it was thought expedient to obtain the skill and vigilance of private interest in managing the institution, the citizens generally were invited to unite their private fortunes with the public capital. They did so, and the charter of the bank is in fact an act of partnership between the Government and the stockholders, specifying the rights and duties of each party. In the charter of the first Bank of the United States, there was on the part of the bank no payment of a bonus—no obligation to transfer the public funds—no performance of the duties of the loan office—while on the part of the Government there was no stipulation to give the use of the deposites. This defect was supplied in the charter of the present bank by positive agreement. Thus the bank, in addition to its arduous duty of restoring and sustaining the general currency, agreed by the 15th section, "to give the necessary facilities for transferring the public funds from place to place within the United States or the territories thereof, and for distributing the same in payment of the public creditors, without charging commission, or claiming allowance on account of difference of exchange; and shall also do and perform the several and respective duties of the commissioners of loans for the several States, or of any one or more of them, whenever required by law."

And again, the 20th section declares "that, in consideration of the exclusive privileges and benefits conferred by this act upon the said bank, the President, Directors, and Company thereof, shall pay to the United States, out of the corporate funds thereof, the sum of one million and five hundred thousand dollars."

Such was the consideration to be given by the bank. The consideration to be given by the Government was "that the deposites of the money of the United States in places in which the said bank and branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall otherwise order and direct; in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the session, the reasons of such order and direction."

This contract was deemed so unfavorable to the citizens generally, that on the opening of the books the subscription was not filled, from a belief that the investment upon such terms could not be advantageous—an anticipation too well realized by the fact that the stockholders have never yet received the legal rate of interest on the principal subscribed. But the only temptation by which they could be induced to unite with the Government was, that while on the one hand they paid in advance to the Government a million and a half of dollars, and performed certain stipulated duties, they should have the benefit of the deposite of public funds until they were wanted in the public disbursements. These were the two essential stipulations—nay, they were in fact almost the only ones. This was the opinion of the Committee on Finance of the Senate, when, on a proposition to make the bank pay for the use of the deposites, they reported, on the 21st of April, 1828, that "the 16th section directs that the deposites of the money of the United States shall be made in the bank and its branches. *No change can be made therein without a direct violation of the charter, which the faith of the nation is bound to sustain.* No view of that kind could be contemplated by any person, and none, it is presumed, has been contemplated"—and they further declare their opinion, that in the bonus and the services rendered by the bank, "the United States have been amply paid for all the advantages derived from the deposites of their funds in the bank and its branches." The same views are expressed in another report of the Committee on Finance of the Senate, on the 20th of February, 1829. "The committee repeat their opinion, that the charter gives to the bank the use of the public deposites, without any other remuneration than such as are distinctly authorized in that instrument—that the exaction of any other would, in the opinion of the committee, be a direct violation of the charter. The 16th section says distinctly, that 'the deposites of the money of the United States shall be made in the Bank of the United States and its Branches.' This is positive, and cannot be misunderstood. The 20th section says, 'that, in consideration of the exclusive privileges and *benefits* conferred by this act upon the said bank, the President, Directors, and Company thereof, shall pay to the United States $1,500,000.' The bank was to pay, and has paid the million and a half of dollars. For what? For the exclusive privileges and benefits conferred by this act. What are the *benefits?* The committee can perceive none, *except the deposites, for which the bank has actually paid already.*"

The President himself, in his manifesto, is obliged to allow that the "charter of the bank is to be considered as a contract on the part of the Government—it is not now in the power of Congress to disregard its stipulations—and by the terms of that contract the public money is to be deposited in the bank during the continuance of its charter, unless the Secretary of the Treasury shall otherwise direct."

It is then admitted on all hands that this is a contract by which the bank was to pay a sum of money, and to perform certain services, as a consideration for the use of the Government deposites, which the Government stipulated should remain in the bank, unless otherwise directed by a particular officer, the Secretary of the Treasury. The purpose of giving this power was obviously to prevent any loss of the revenue, and it was designed exclusively to enable the Secretary to protect the interests of the Government if the bank became unsafe. This was the opinion of the Secretary of the Treasury, Mr. Crawford, who, in one of his very first communications to the bank, in March 17, 1817, declared "that, by the charter, the public money deposited in places where the Bank of the United States, or its Branches, are established, *must be deposited in them, except when there are urgent reasons to the contrary.*" This was also the opinion pronounced by the Committee on Finance of the Senate, in their report of the 20th of February, 1829. After citing the 16th section, they say—

"The committee see, in the power given to the Secretary, a discreet precaution, and the words they

believe convey *only* the idea, that if, at any time, the Secretary shall be of opinion that there will be a danger of loss to the United States, by its money remaining in the vaults of the bank, he may remove it for safety, and report his reasons to Congress. No other construction can, in the opinion of the committee, be given to that part of the 16th section."

This, too, was the opinion expressed by the President himself in his message to Congress on the fourth of December, 1832, in which he recommends an inquiry in order to allay "the apprehension that it is no longer a *safe* depository of the money of the people;" and in the same message he adds:

"Such measures as are within the reach of the Secretary of the Treasury have been taken to enable him to judge *whether the public deposites in that institution may be regarded as entirely safe;* but as his limited power may prove inadequate to this object, *I recommend the subject to the attention of Congress, under the firm belief that it is worthy of serious investigation.*"

And the Secretary of the Treasury, in his report to the same Congress, in 1832, mentions certain things which "have suggested an inquiry *into the security of the bank* as the depository of the public funds."

The subject of the safety of the deposites was thus an object of inquiry by the Secretary of the Treasury and by Congress,—and what was the result? The agent of the Treasury, after a full investigation, reported as follows:

"Thus far I consider my report as complying with that part of your letter directing the investigation so as to ascertain *the security of the public money, 'and the solvency of the bank,' neither of which, in my opinion, admit of a doubt.*"

The House of Representatives, after an investigation by the Committee of Ways and Means, resolved, by a vote of more than two-thirds—

"*That the Government deposites may, in the opinion of the House, be safely continued in the Bank of the United States.*"

From these it is apparent that, in the opinion of the President, the Secretary of the Treasury, and the Committee on Finance, the question of removing the deposites was a question merely of their safety:

That the Government, through its proper channels, inquired into their safety:

And that through all these channels their safety was made manifest, and so declared by the highest authority.

But supposing this to be less evident than it is—supposing that causes other than the safety of the public funds would justify their removal from the bank, after it has paid a full equivalent for them, still one thing is manifest:

That the Secretary of the Treasury, and the Secretary of the Treasury alone, has the power to remove them—that officer being specially designated to perform that specific duty—and the President of the United States being, by the clearest implication, forbidden to interfere.

The whole structure of the Treasury shows that the design of Congress was to make the Secretary as independent as possible of the President. The other Secretaries are merely executive officers; but the Secretary of the Treasury, the guardian of the public revenue, comes into more immediate sympathy with the representatives of the people who pay that revenue; and although, according to the general scheme of appointment, he is nominated by the President to the Senate, yet he is in fact the officer of Congress, not the officer of the President. Thus:

By the act of Congress, of 1789, it was provided that—

"There shall be an *Executive* Department, to be denominated the Department of War; and there shall be a principal officer therein, to be called the Secretary for the Department of War, who *shall perform and execute such duties as shall from time to time be enjoined on, or intrusted to him, by the President of the United States.*"

By the same act it was provided, that—

"There shall be an *Executive* Department, to be denominated the Department of Foreign Affairs, [afterwards changed by the act of September 15, 1789, to the Department of State,] *with the same provisions as to the principal officer.*"

By the act of 30th April, 1798, it was declared, that—

"There shall be an *Executive Department*, under the denomination of the Department of the Navy, the chief officer of which shall be called the Secretary of the Navy, whose duty it shall be to *execute such orders as he shall receive from the President of the United States.*"

The bill introduced into the Congress of 1789, provided for the establishment of the three Departments—those of War, State, and Treasury—under the name of *Executive* Departments. But Congress makes a distinction between them. On the 2d of July, 1789, as the Journals of Congress show, "An engrossed bill 'for establishing an *Executive Department*, to be denominated the *Treasury Department*,' was read the third time, and the blanks therein filled up.

"Resolved, That the said bill do pass, and the title be an *Act to establish the Treasury Department.*"

The same distinction pervades the whole organization of the several Departments. The Secretary of the Navy, of State, and of War, are to execute the orders of the President, but the Secretary of the Treasury is not enjoined to execute the orders of the President. Not a single word is there of performing the orders of the President. On the contrary, the act of Congress declares that it shall be his duty "to make report and give *information to either branch of the Legislature, in person or in writing,* (as he may be required,) respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office." And the act of May 10th, 1800, directs him to make his annual report, not to the President, but to Congress.

This independence of the Secretary of the Treasury—if it be true in general—is more especially true in regard to the bank. It was in fact the leading principle in organizing the bank, that the President should be excluded from all control of it. The question which most divided the House of Representatives was, whether there should be any Government Directors at all: and although this was finally adopted, yet its tendency to create executive influence over the bank was qualified by two restrictions: first, that no more than three Directors should be appointed from any one State; and, second, that the President of the bank should not be, as was originally designed by the Secretary of the Treasury, chosen from among the Government Directors. Accordingly, by the charter, the Secretary of the Treasury is every thing—the President comparatively nothing. The Secretary has the exclusive supervision of all the relations of the bank with the Government. Thus:

By the 15th article of the 11th section, the officer at the head of the Treasury Department of the United States shall be furnished from time to time, as often as he may require, not exceeding once a week, with statements of the amount of the capital stock, &c.

By the 15th section, "Whenever required by the Secretary of the Treasury, the said corporation shall give the necessary facilities for transferring the public funds," &c.

By the 16th section, the deposites of the money of the United States shall be made in the bank and its branches, "unless the Secretary of the Treasury shall at any time otherwise order and direct."

All these the Secretary may do—but from the beginning of the charter to the end of it, there is not one single

power over the administration of the bank assigned to the President, except in the last section, where it is declared, that "whenever any committee of Congress shall find and report, or the President of the United States *shall have reason to believe, that the charter has been violated*, it may be lawful for Congress to direct, or the President to order, a *scire facias* to be sued out of the circuit court for the district of Pennsylvania, calling upon the corporation to show cause wherefore the charter hereby granted shall not be declared forfeited." The whole function then delegated to the President is a power, concurrently with a committee of Congress, to issue a scire facias, by which the court is to try whether his belief that the bank has violated its charter is well founded. Yet, this slender authority is made the pretext for usurping the whole power of the Secretary, and for doing that which the Secretary alone was authorized to do, and which he, the President, was not merely not authorized to do, but substantially prohibited from doing. For it is manifest that this removal of the deposites is not made by the order of the Secretary of the Treasury. It is a perversion of language so to describe it. On the contrary, the reverse is openly avowed. The Secretary of the Treasury refused to remove them, believing, as his published letter declares, that the removal was "unnecessary, unwise, *vindictive*, arbitrary, and unjust." He was then dismissed because he would not remove them, and another was appointed because he would remove them. Now this is a palpable violation of the charter. The bank and Congress agree upon certain terms, which no one can change but a particular officer; who, although necessarily nominated to the Senate by the President, was designated by the bank and by Congress as the umpire between them. Both Congress and the bank have a right to the free, and honest, and impartial judgment of that officer, whoever he may be—the bank, because the removal may injure its interests—the Congress, because the removal may greatly incommode and distress their constituents. In this case, they are deprived of it by the unlawful interference of the President, who "assumes the responsibility," which, being interpreted, means, usurps the power of the Secretary. To make this usurpation more evident, his own language contradicts the very power which he asserts:

"The power *of the Secretary*, he says, over the deposites, is *unqualified*."

"The President cannot refrain from pressing upon the *Secretary of the Treasury* his view of the considerations which impel to immediate action."

And yet these phrases have scarcely escaped him, when he ends by declaring that he "begs his cabinet to consider the proposed measure *as his own*." "*Its responsibility is assumed*," &c.

Finally, it was announced in the official gazette, that "*We know the fact*, that if Mr. Van Buren and every personal friend of the President, had united in recommending that the deposites should not be removed, *the President would have taken measures to remove them notwithstanding*."

The bank, then, has a right to complain:

1st. That, after paying amply for the use of the deposites, they have been suddenly drawn from it.

2d. That this has been done without the slightest suspicion of their insecurity, the only ground on which the removal could be justifiable—and,

3d. That it has been done, not by the officer to whose judgment it had agreed to submit, but by another officer who had not the slightest right to interfere.

But the wrong done to the pecuniary interests of the bank, sinks into entire insignificance, when compared with the deeper injury inflicted on the country by this usurpation of all the powers of the Government.

By the act of Congress chartering the bank, certain specified powers in regard to it are delegated to particular officers.

By the 16th section, and by the 15th rule of the 11th section, the Secretary of the Treasury has a constant supervision of its affairs, and the power of placing the public revenue elsewhere, subject to an immediate and direct responsibility to Congress.

By the 22d section, Congress itself has the power of investigation, to ascertain if there be sufficient ground to justify an appeal to the courts of the United States, to try if it has violated its charter.

Finally, by the same section, whenever the President of the United States shall have "reason to believe that the charter has been violated," he "may order a scire facias to be sued out of the circuit court of the district of Pennsylvania, calling on the said corporation to show cause wherefore the charter hereby granted shall not be declared forfeited."

This is the whole power of the President in relation to the bank. He may, if he thinks that the charter has been violated, bring the bank before the court for trial. Now in this manifesto, he distinctly declares that the bank has acted "in direct violation of one of the most important provisions of the charter." If so, it was his duty to issue the scire facias—to appeal to the courts and juries. That was the only legitimate action which belonged to him. But a judicial investigation of his charges is precisely what he dreaded. The more summary and illegal invasion of the powers of others, seems to have more attraction than the legitimate exercise of his own. And, making himself accuser and judge—disregarding the vote of Congress, the authority of the courts and juries, and the exclusive power of the Secretary of the Treasury, he substitutes at once his own arbitrary will. Certainly, since the foundation of this Government, nothing has ever been done which more deeply wounds the spirit of our free institutions. It, in fact, resolves itself into this—that whenever the laws prescribe certain duties to an officer, if that officer, acting under the sanctions of his official oath and his private character, refuses to violate that law, the President of the United States may dismiss him and appoint another; and if he too should prove to be a "refractory subordinate," to continue his removals until he at last discovers in the descending scale of degradation some irresponsible individual fit to be the tool of his designs. Unhappily, there are never wanting men who will think as their superiors wish them to think—men who regard more the compensation than the duties of their office—men to whom daily bread is sufficient consolation for daily shame.

The present state of this question is a fearful illustration of the danger of it. At this moment the whole revenue of this country is at the disposal—the absolute, uncontrolled disposal—of the President of the United States. The laws declare that the public funds shall be placed in the Bank of the United States, unless the Secretary of the Treasury forbids it. The Secretary of the Treasury will not forbid it. The President dismisses him, and appoints somebody who will. So the laws declare that no money shall be drawn from the Treasury, except on warrants for appropriations made by law. If the Treasurer refuses to draw his warrant for any disbursement, the President may dismiss him and appoint some more flexible agent who will not hesitate to gratify his patron. The text is in the official gazette, announcing the fate of the dismissed Secretary to all who follow him. "The agent cannot *conscientiously* perform the service and refuses to co-operate, and *desires* to remain to thwart the President's measures. To put an end to this difficulty between the head and the hands of the Executive department, the constitution arms the Chief Magistrate with authority to remove the refractory subordinate." The theory thus avowed, and the recent practice under it, convert the whole free institutions of this country into the mere absolute will of a single individual. They break

down all the restraints which the framers of the Government hoped they had imposed on arbitrary power, and place the whole revenue of the United States in the hands of the President.

The power, too, is asserted in a tone fitter for the East than for any country claiming to be governed by laws. The President declares that, "in his opinion, the near approach of the termination of the charter, and the public considerations heretofore mentioned, are of themselves amply sufficient to justify the removal of the deposites, without reference to the conduct of the bank, or their safety in its keeping."

The only 'public considerations heretofore mentioned,' are his own re-election, and his belief that the charter would not be renewed. So that the President here avows that, although the last Congress passed a bill re-chartering this very bank—although the same Congress, a few months ago, at his own invitation, declared that the public deposites might be safely continued in this bank—although a new Congress, many of whose members are chosen by the people since his own election, is about to meet in ninety days, and will continue in existence for two years—although at the end of those two years a new Congress, fresh from the people, will meet before the charter expires—yet, notwithstanding all this, he, the President, declares on his own responsibility that the deposites shall be removed; no matter whether the conduct of the bank has been good or bad, and no matter whether the deposites are safe or unsafe; and, accordingly, he dismisses the officer who refuses to remove them, and appoints another who will remove them.

At this moment the process of evading the law is in full practice.

By the constitution of the United States, (sec. 9,) "no money shall be drawn from the Treasury but in consequence of an appropriation made by law."

By the act of September 1, 1789, establishing the Treasury Department, the Secretary of the Treasury is authorized to "grant all warrants for moneys to be issued from the Treasury *in pursuance of appropriations made by law;*" and the same act further declares, "that it shall be the duty of the Treasurer to receive and keep the moneys of the United States, and to disburse the same, upon warrants drawn by the Secretary of the Treasury, *countersigned by the Comptroller*, recorded by the Register, and *not otherwise.*"

But there has been a usage of transferring funds from one branch of the Bank of the United States to another, or one State bank to another, when the public service required disbursements at remote places. This *transfer draft*, intended to require an actual transfer, has been converted into a mere check—a warrant in fact, though not in form—and has been applied to the purpose of taking the funds out of the place to which they are assigned by law, and *transferring* them to the opposite side of the street. As it was never presumed that such a power would be thus abused, the transfer draft has fewer checks than the warrant for disbursement, the signature of the Comptroller, who is the law officer of the Treasury, not being usual; and accordingly, by a strange anomaly, although the Treasurer's warrant to pay one hundred dollars to an honest creditor of the Government must go through a great variety of forms, the transfer draft for a million has fewer formalities. By means of these transfer drafts, as will be seen by the annexed correspondence, large sums of money have been withdrawn from the Bank of the United States, and placed in State Banks in the same city, without the slightest reference to the public disbursements—and no less than two millions three hundred thousand dollars of the public revenue have been placed at the discretion of the officers of the State banks by transfer drafts privately issued, and without the notice to the Bank of the United States, which the Treasury had promised to give, and had hitherto always given of similar demands on the bank.

The committee willingly leave to the Congress of the United States the assertion of their own constitutional power, and the vindication of the principles of our Government, against the most violent assault they have ever yet encountered; and will now confine themselves to the more limited purpose of showing that the reasons assigned for this measure are as unfounded as the object itself is illegal.

The main purpose, in fact, of this manifesto, appears to be to prove that the bank was unfriendly to his own election, and he endeavors to trace this opposition to him and his measures.

1st. In the application to Congress for the renewal of the charter.

2d. In the extension of the loans of the bank in 1831 and 1832.

3d. In the claim for damages on the French bill.

4th. In the circulation of documents vindicating the bank from the imputations which had been cast upon it.

All these assertions it is proposed briefly to disprove.

1st. He first complains that the bank applied to Congress for a decision in regard to its charter. He says "that there are strong reasons for believing that the motive of the bank for asking for a recharter at that session was to make it a leading question in the election of a President of the United States the ensuing November, and all steps were deemed necessary to procure from the people a reversal of the President's decision:" and again, "the object avowed by many of the advocates of the bank was to put the President to the test;" and moreover, "it was to compel the President to take his stand that the question was brought forward at that particular time." Now the fact is, that, so far from prematurely hastening a discussion on the part of the bank, it was in fact *he himself who brought this very question before Congress*, and rendered its discussion inevitable. Thus, in his message of December 8, 1829, he said—

"The charter of the Bank of the United States expires in 1836, and its stockholders will most probably apply for a renewal of their privileges. In order to avoid the evils resulting from precipitancy in a measure involving such important principles, and such deep pecuniary interests, I feel that *I cannot in justice to the parties interested, too soon present* it to the deliberate consideration of the Legislature and the people."

In his message of December 11, 1830, he says:

"The importance of the principles involved in the inquiry whether it be proper to recharter the Bank of the United States, requires that *I should again* call the attention of Congress to the subject."

In his message of December 6, he says:

"Entertaining the opinions heretofore expressed in relation to the Bank of the United States, as at present organized, I felt it my duty, in my former messages, frankly to disclose them, in order that the attention of the Legislature and the people should be *seasonably directed* to that important subject, and that it might be considered and finally disposed of in a manner best calculated to promote the ends of the constitution, and subserve the public interests. Having thus conscientiously discharged a constitutional duty, I deem it proper, *on this* occasion, without a more particular reference to the views of the subject then expressed, to *leave it at present to the investigation of an enlightened people and their representatives.*"

It was under these distinct and repeated invitations by the President himself, that the bank felt itself obliged not to decline his call upon Congress, and accordingly the subject was brought before that body.

Both houses of Congress passed the bill renewing the charter. This result was unexpected to him, and although he had declared in the message, just quoted, that he

meant to "leave it at present to the *investigation of an enlightened people and their representatives*"—yet, the moment the enlightened people and their representatives differed from him in opinion, he treated them just as he has recently done the conscience of the Secretary of the Treasury—he refused his signature to the bill on the 14th of July, 1832, declaring that "had the Executive been called upon to furnish the project of such an institution, the duty would have been cheerfully performed." As, however, no such call was made, he concluded that "*as the charter had yet four years to run, and as a renewal now was not necessary to the successful prosecution of its business*, it was to have been expected," &c.

Here, then, the President begins in 1829, when the bank had nearly *seven years to run*, by telling Congress that to avoid precipitancy he could *not too soon* present the subject of the re-charter to their consideration. The next year, when the bank had nearly *six years to run*, he repeated to Congress that the importance of the subject of the re-charter required that he *should again* call the attention of Congress to it. The next year, when the bank had *five years to run*, he reiterated to Congress that he thought the attention of Congress should be *seasonably* directed to this important subject; and then, when Congress at his request proceeded to consider it, and renewed the charter, he sent it back with a declaration, that as the charter had *yet four years to run*, there was no necessity for being in haste about it.

And now, in the face of all these testimonials of his urging Congress, year after year, to decide the question, as they decided against him, he asserts that the bank must have brought it before Congress to defeat his election.

His second proof is scarcely less extraordinary. He says that in order to carry the election against him "although the charter was approaching its termination, and the bank was aware that it was the intention of the Government to use the public deposite as fast as it accrued in the payment of the public debt, yet did it extend its loans from Jan. 1831, to May 1832, from $42,402,304 24 to $70,428,070 72, being an increase of $28,025,766 48 in sixteen months. It is confidently believed that the leading object of this immense extension of its loans was to bring as large a portion of the people as possible under its power and influence."

The errors here are as follows:

1st. That the fact in regard to the increase of the loans is misstated; and that the motives of them are wholly perverted.

The truth is, that the loans at the periods mentioned stood thus:

	January, 1831.	May, 1832.
Loans to individuals	$33,575,403 43	$47,375,078 20
Loan to Government	8,674,681 06	
Domestic bills	10,456,653 90	23,052,972 52
	$52,706,738 39	$70,428,050 72
		52,706,738 39
		$17,721,312 33
Baring, Br's. & Co.	Cr. 2,387,331 19	Dr. 1,878,122 29

From this it is manifest that, between those two periods the bank had received from Government the reimbursement of - - - $8,674,681 06

It had drawn for its foreign funds - -	$2,387,331 19	
And drawn on its foreign correspondence for an additional sum of -	1,878,122 29	
Making a total of		4,265,453 48
Thus furnishing additional means of discounting to the amount of		$12,940,134 54

Yet its actual loans—its actual discounts, were increased only - - 5,124,893 71

The domestic bills of exchange purchased for the transferring of the funds of the Government, or of individuals, make a separate and independent business, dependent on the demand for the interior commerce of the country. But taking the increase of those bills into consideration, it will be seen that the increase of loans is - - - - - $5,124,893 71

And the increase of bills of exchange 12,596,318 62

Making a total increase of - - $17,721,212 33

instead of twenty-eight millions, as asserted by the signer of the paper. That is to say, in the year 1831, there being a most active foreign and interior trade, requiring unusual facilities for its operations, the bank having received from the Government the reimbursement of its loan to Government, amounting to more than eight millions; and having called in its funds in Europe, and employed its credit there to the amount of four millions, possessing thus additional means of loaning to the amount of nearly thirteen millions, actually increased its loans to the amount of seventeen millions, making in fact a mere increase of its investments not equal to five millions, of which increase the new Branch Bank of Natchez, established within that period, alone contributed nearly three millions.

There are several circumstances which make this misstatement peculiarly improper. He reproaches the bank with this increase, although "the bank was aware of the intention of the Government to use the public deposite as fast as it accrued, in the payment of the public debt." Now the fact is, that this public deposite was used, as we have just seen, in *paying off the public debt owned by the bank itself*—so that instead of increasing its loans in such a way as to interfere with the payment of the public debt to others, this very public debt was actually paid to the bank itself, and furnished the very means of increasing the loans.

What makes it still worse is, that this very *public debt was in fact paid to the bank on the solicitation of the Treasury itself, before the bank was bound to receive it.* On the 29th day of September, 1831, the Secretary wrote to the President of the bank—

"The offer made by you this day, on behalf of the Bank of the United States, for the immediate reimbursement at par of the following stocks received by that institution, is accepted, viz:

91,188 92 of 4½ per cents. of 26th May, 1824.
3,260,475 99 of 4½ per cents. of 24th May, 1824.

$3,351,664 91

"The Department *fully appreciates the disposition which the Board of Directors have manifested by this arrangement, to co-operate in the accomplishment of its desire for the discharge of the public debt* as early as the means of the Treasury will permit."

It has been thus seen, first, that the actual amount of increased investment was less by ten millions than is here asserted: second, that the public debt which the bank is charged with not preparing to pay, was actually paid to the bank itself, and not merely paid to the bank, but paid before it was due, in order to accommodate the Government. In regard to this increase, too, the points of comparison are wholly fallacious. From the nature of the business of the country, the loans are necessarily larger in May than January, because the Southern crop, with all its business, enlarges the spring operations of the bank; and no more just result can be had by comparing May and January, than by comparing the thermometer of the two seasons. The true comparisons must be between

January and January, or between May and May. Now the fact is, that the increase of the successive years is comparatively small. The loans at these successive periods were as follows:

	To Individuals.	To Government.	Total.
May, 1827,	33,118,707 46	17,764,359 05	50,883,066 51
" 1828,	37,353,717 92	17.474,111 43	54,827,829 35
" 1829,	42,894,587 90	15,007,472 13	57,902,060 03
" 1830,	43,206,694 12	10,892,530 90	54,099,225 02
" 1831,	53,582 067 75	5,674,681 06	59,256,748 81
" 1832	70,428,070 72	paid off.	70,428,070 72
" 1833,	64,519,900 73	"	64,519,900 73
Nov., 1833.	57,210,604 38	"	57,210,604 38

From which it appears that this enlargement was gradual; that it occurred when the wants of the country required the aid of this expansive power, so valuable in the institution, and that the increase has subsided when no longer required.

Supposing all this, however, to have been exactly as it has been stated, that is, supposing this increase of loan to have been twenty-eight millions, what does it prove? Why, that the bank enlarged its business to meet the commercial wants of the country, and when those wants were supplied, the business of the bank of course subsided. But the President can ascribe this increase to no other cause than his own election. Accordingly, he says that the bank, in January, 1831, began to prepare for his election, which was to take place nearly two years afterwards, by lending twenty-eight millions. It is somewhat hostile to this theory, that this whole increase had reached its height in May, 1832. Now, in December, 1831, the Secretary of the Treasury, with the full approbation of the President, had spoken in the most favorable terms of the bank, and he did not sign his veto message against it until July, 1832, up to which period it was doubtful whether he would veto it, and of course it was unknown whether the bank would have the least reason to be opposed to his election; and these whole twenty-eight millions might have been uselessly lavished; so that the bank increased its loans while it had no interest in his election, and did not increase them when he supposes it had. Truly, this mode of "bringing as large a portion of the people under its power and influence," seems singularly ill-timed.

3d. In recurrence to his own election, he next proceeds to declare, that "whatever may be the opinion of others, the President considers his re-election as a decision of the people against the bank." Now, it is difficult for any one to believe this, since it is notorious that many of the most decided friends of the bank were his zealous supporters. Thus, Pennsylvania was the most efficient of them all; yet that same Pennsylvania, with extraordinary unanimity, in February, 1831, passed the following resolution:

"That the constitution of the United States authorizes, and near half a century's experience sanctions a Bank of the United States as necessary and proper to regulate the value of money, and prevent paper currency of unequal and depreciated value."

And again, with equal unanimity, in February, 1832, the following:

"That the Senators from this State in the Congress of the United States, be instructed, and the Representatives requested to use their exertions to obtain a renewal of the charter of the Bank of the United States during the present session of Congress, with such alterations (if any be necessary) as may secure the rights of the States."

Such a belief, moreover, is opposed by his own declaration in the Veto Message, that "a new Congress, elected in the midst of such discussion, and furnishing an equal representation of the people according to the last census, will bear to the Capitol the verdict of public opinion, and, I doubt not, bring this question to a satisfactory result.

Now, that Congress to which he referred the decision of the question, had not yet assembled. In some parts of the country the members had not been even elected at the time of signing this manifesto; and yet he now asserts that he "considers it as conclusively settled that the charter of the Bank of the United States will not be renewed, and he has no reasonable ground to believe that any substitute will be established. Being bound to regulate his course by the laws as they exist, and not to anticipate the *interference* of the Legislative power for the purpose of framing new systems, it is proper *for him seasonably* to consider the means by which the services rendered by the Bank of the United States are to be performed after its charter shall expire." This seems to involve an inconsistency. There was a Congress about to meet in ninety days, to which very Congress he had referred the question of the bank. There was a new Congress to meet in December, 1835, before the expiration of the charter. Yet does he now declare that, since the people elected him, and he was opposed to the bank, he revokes all he said about the Congress of 1833, disregards the Congress of 1835, and chooses to consider it settled without any "interference of the Legislative power."

The next head of complaint is the postponement of a portion of the three per cents., by the Government, in April, 1832; and of another portion by the bank in December, 1832. Now, it is very remarkable that both these subjects were fully examined; the first by the Committee of Investigation of 1832, and the second by the Committee of Ways and Means of 1833; and both reports are in decided contradiction to the assertions of the President. For instance, he complains of the first postponement, which he imputes to the bank; whereas the Committee of Investigation themselves declare "they are fully of opinion that the bank neither sought for nor requested a postponement of the payment by the Government." He complains of the second postponement, yet the Committee of Ways and Means report that the nominal postponement had, in fact, closed the payments sooner than if no postponement had been made; and that "this question seems no longer to present any important or practical object of inquiry, or to call for or admit of any action of Congress upon it."

This would seem to be perfectly satisfactory; yet, lest the revival of these charges may mislead the unsuspecting, it may be well to refute them again, as they have been often refuted before, and first, of the postponement in October. He says of it:

"Conscious that at the end of that quarter the bank would not be able to pay over the deposites, and that further indulgence was not to be expected of the Government, an agent was despatched to England secretly to negotiate with the holders of the public debt in Europe, and induce them, by the offer of an equal or higher interest than that paid by the Government, to hold back their claims for one year, during which, the bank expected thus to retain the use of $5,000,000 of public money, which the Government should set apart for the payment of that debt. The agent made an arrangement on terms, in part, which were in direct violation of the charter of the bank; and when some incidents, connected with this secret negotiation, accidentally came to the knowledge of the public and the Government, then, and not before, so much of it as was palpably in violation of the charter was disavowed!"

If there be any one matter in regard to which the bank is more beneficial than any other matter, it is precisely this agency in paying off the public debt; and if there be any cases in the course of that agency more useful than any other cases, they are precisely these two cases which are here made the subjects of reproach.

The whole collection of the revenue is based on the system that funds are never accumulated in the Treasury for a long period, but are principally lent out to the community, and only called for as they are needed for the public service. Wherever, therefore, large payments are made by the Government, as it is necessary to withdraw from the use of the community considerable sums, this process requires some delicacy in recalling from distant parts of the United States as much as may answer the immediate exigency, yet not enough to press disadvantageously on the community. This is the especial function of the bank. How well it has succeeded, may be inferred from the testimonial of the successive Secretaries of the Treasury. Thus, Mr. Rush, in his Treasury report of the 13th of December, 1828, says:

"In this manner heavy payments of the debt are, in effect, made gradual, instead of the whole mass being thrown at once upon the money market, which might produce injurious shocks. So prudently in this and other respects does the bank aid the operations of paying off the debt, that the community hardly has a consciousness that it is going on."

And Mr. Ingham, in like manner, on the 11th of July, 1829, says:

"I take the occasion to express the great satisfaction of the Treasury Department at the manner in which the President and Directors of the parent bank have discharged their trust in all their immediate relations to the Government, so far as their transactions have come under my notice, and especially in the facilities afforded in transferring the funds of the Government, and in the preparation for the heavy payment of the public debt, on the 1st instant, which has been effected by means of the prudent arrangements of your board, at a time of severe depression on all the productive employments of the country, without causing any sensible additions to the pressure, or even visible effect upon the ordinary operations of the State banks."

Finally, the President himself, in his message to Congress of December, 1829, says:

"It was apprehended that the withdrawal of so large a sum from the banks in which it was deposited, at a time of unusual pressure on the money market, might cause much injury to the interests dependent on bank accommodations. But this evil was wholly averted by an early anticipation of it at the Treasury, aided by the judicious arrangements of the officers of the Bank of the United States."

It had thus become the habitual policy of the bank at the approach of any large payment, to begin its preparations for a long period in advance, so as to collect its resources gradually, and to distribute its disbursements over as wide a sphere as possible.

In the year 1832 the country was heavily indebted to Europe for the large importations of the year 1831: and it was particularly desirable to give to the community leisure to pay that debt out of their annual earnings, and to prevent any addition to the foreign demand in 1832. Now there were more than twenty-five millions and a half of the principal and interest of that debt payable in the year 1832, from December 31, 1831, to January 1, 1833, of which more than fifteen millions were to be paid in nine months, and between eight and nine of it to foreigners. The bank was fully prepared to make the first payment on the 1st of October, 1832.

The State banks of Philadelphia, New York, and Boston, owed to this bank - - -	$2,280,000
Its specie at these places alone was -	3,200,000
Its funds in Europe were - - -	2,982,000
Making of cash in hand, or its equivalents -	$8,462,000
With an open credit in Europe, on which to draw, for - - - - - -	2,500,000

Besides not less than twenty millions of debts, to be used for this purpose; while the whole public debt to be paid on the 1st of October, was $8,634,988 37.

In this state the bank, had it considered only its own interest, would have been perfectly passive, since it was perfectly at ease. But it had other and higher interests to consult. From the communication with the Treasury, in July, it was probable that the funds of the Government might be insufficient to pay the debt advertised to be paid, and that even if these funds were adequate, the operation would exhaust all the means of the Government, and require that the community should repay the whole amount of the public funds distributed among them. It was further manifest that the ability of the Government to meet its engagements depended entirely on the punctual payment of the revenue in the commercial cities, from July to January, which was estimated at about $12,000,000.

That resource was threatened with the greatest danger by the appearance of the cholera, which had already begun its ravages in New York and Philadelphia, with every indication of pervading the whole country. Had it continued as it began, and all the appearances in July warranted the belief of its continuance, there can be no doubt it would have prostrated all commercial credit, and seriously endangered the public revenue, as in New York and Philadelphia alone the demand, on account of the foreign three per cents., was about five millions.

The bank, therefore, made an arrangement with the foreign owners of this stock, to the amount of $4,175,373 92, to leave their money in the country for another year, the bank assuming to pay the interest instead of the Government. Having settled this, the bank resumed its usual facilities of business to the community. Of the whole four millions postponed, the interest on them has ceased, and at this moment the only certificates not yet actually returned are those in the name of two persons, amounting to $42,375 94; and it is remarkable that, while of the whole amount of $4,175,373 92 purchased and postponed, there remain unpaid only two owners, holding $42,375 94; the amount of the unpostponed threes still outstanding is five or ten times as much. So that in fact, as was anticipated in the report of the Committee of Ways and Means, the postponement has actually hastened the payment.

All these things were fully explained by the Committee of Ways and Means, to whom that part of the President's message was referred, and that committee accordingly reported as follows:

"The arrangement made by the bank for a temporary postponement, with the consent of the holders, of the payment of five millions of the three per cent. debt, being now substantially closed by the surrender to the Government of the certificates of stock except for a small amount, and the whole debt itself, as far as respects the Government, at an earlier period than it is probable it would otherwise have been, this question seems no longer to present any important or practical object of inquiry, or to call for or admit any action of Congress upon it."

This ought to be satisfactory, yet is the subject now revived, with the addition of two distinct errors in point of fact. The first is, that the bank "was conscious that at the end of the quarter it would not be able to pay over the deposites:" whereas the state of the bank, as above explained, proved its entire ability to make this payment, and that its interposition was exclusively dictated by the desire to avert an additional trouble at a season of pestilence. The second is, that the part of the arrangement

made with the agent of the bank was now disavowed until "some incidents connected with this secret negotiation accidentally came to the knowledge of the public and the Government." The fact is, that as soon as that part of the arrangement which seemed to conflict with the charter was received, the determination was made to decline executing it before any publication of any sort was seen or known in regard to it.

The evidence of this is so clear and so short, that it deserves to be cited as an example of the general inaccuracy of this manifesto. The committee of exchange, in their report to Congress in January 29, 1833, declare as follows:

"But when the contract itself reached the bank, on the 12th of October, and it appeared from the communication of Messrs. Baring, Brothers, & Co. that the stock was to be purchased on account of the bank, they were immediately instructed, on the 15th of October, that the bank had no authority to become owners of the stock," &c.

When two of the members of the committee were examined on oath before the Committee of Ways and Means, they confirmed the statement as follows:

Question. Had the President or Exchange Committee any intention to disavow General Cadwalader's authority to make the contract he did, until after the appearance in the New York papers, of the 11th or 12th October last, of the circular of the Barings to the foreign holders of the United States three per cent. stocks, announcing to them that they had the authority of the bank to purchase or negotiate a postponement of the stocks held by them?

Answer of Mr. Manuel Eyre. I can say yes, positively. I recollect it perfectly well. When I first read this letter, I said it was not proper, and disavowed it.

Answer of Mr. Matthew L. Bevan. I never did see, myself, the notice referred to in the New York papers, but well recollect, the moment the letter was received, giving information of the proceedings in relation to that negotiation: the President of the bank, with the approbation of the Exchange Committee, immediately wrote, disavowing the nature of that arrangement, it having been made under a misapprehension.

The complaint in regard to the postponement by the Government in April, 1832, is of the same character. He says that, "after this negotiation had commenced, the Secretary of the Treasury informed the bank that it was his intention to pay one-half of the three per cents. on the first of the succeeding July, which amounted to about $6,500,000." The President of the bank, although the Committee of Investigation was then looking into its affairs at Philadelphia, came immediately to Washington, and upon representing that the bank was desirous of accommodating the importing merchants at New York, (which it failed to do,) and undertaking to pay the interest itself, procured the consent of the Secretary, after consultation with the President, to postpone the payment until the succeeding first of October.

The impression here intended to be conveyed is, that the President of the bank, in order to relieve the institution from a demand which it could not sustain, asked an indulgence, which was conceded by the Government. Now the truth is, that the Government wished to make the postponement, but could not do it without the aid of the bank. Mr. McDuffie, chairman of the Committee of Ways and Means, and Mr. Cambreleng, chairman of the Committee on Commerce, who were then members of the Committee of Investigation at Philadelphia, wrote letters to the Secretary of the Treasury, dissuading the Government from making the payment. The only difficulty in doing it was, that the Commissioners of the Sinking Fund had no authority to postpone the payment, as they would be obliged to pay the quarter's interest during the three months' delay, and as this difficulty was removed by the President of the bank, who agreed to pay the interest, as the money would remain in the hands of the bank. The letters just mentioned were accordingly submitted to the President, who never saw the Secretary of the Treasury on the subject, as that gentleman was sick, and who himself decided on the postponement, after seeing the recommendation of Mr. McDuffie and Mr. Cambreleng. Much stress is also laid on the visit of the President of the bank to Washington, while the Committee of Investigation were in Philadelphia. The truth was, the letter of the acting Secretary was received so immediately before the period fixed for issuing the notice of payment, that if any thing were to be done at all, it was to be done only by personal communication with the Secretary, as there was no time for correspondence. The gentlemen of the committee were aware of his going, and two of its members wrote letters to promote its object. Besides, his leaving the Committee of Investigation in full possession of the bank and all its papers, so far from being a subject of reproach or suspicion, is the surest mark of his entire reliance that there was nothing in the concerns of the bank which they might not examine at leisure during his absence, and was the best proof of his confidence in them as well as himself. The whole subject was before the Committee of Investigation of 1832, and that committee acknowledged, as will be seen from the following extract from their report, that this postponement was not the work of the bank. The committee say:

"They made a call upon the President of the bank for the correspondence in relation to the postponement of the payment, in the following words: 'Will you please give a copy of the correspondence connected with your application in March last, requesting a suspension by the Government of the payment of a portion of its debt intended to have been made on the first of July next, or a statement of the arrangement made in relation to that subject.' Which correspondence was communicated by the President of the bank, with the following remarks:

"I have made no application to the Government, nor have I requested any suspension of the payment of any portion of the public debt."

"The inquiry, I suppose, relates to this circumstance: 'I received a letter from the acting Secretary of the Treasury, dated the 24th March, 1832, informing me that Government was about to issue a notice on the first of April of their intention to pay, on the first July next, one-half of the three per cent. stock, and to do it by paying to each stockholder one-half of the amount of his certificate.' He added:

'If any objection occurs to you, either as to the amount or mode of payment I will thank you to suggest it.'

"Thus invited by the Government in a communication marked 'confidential,' to give my opinions on a measure contemplated by the Government, I felt it my duty to express my views of its probable operation; in my reply, therefore, dated 29th of March, I stated 'that so far as the bank is concerned no objection occurs to me, it being sufficient that the Government has the necessary amount of funds in the bank to make the contemplated payments.' I then proceeded to observe, that, in the present condition of the commercial community, and with a very large amount of revenue, (amounting to nine millions,) to be paid before the first of July, the debtors of the Government would require all the forbearance and all the aid that could be given them; and that the payment proposed, by creating a demand for the remittance of several millions of dollars to European stockholders, would tend to diminish the usual facilities afforded to the debtors of the Government, and might endanger the punctual payment of the revenue. For this reason I thought it for the interest of the Government to postpone the pay-

ment till the next quarter. I further stated, that the plan of paying to each stockholder only one-half of his loan, would not be so acceptable as if his whole loan was paid at once.

"Having thus performed my duty in giving the opinion asked, I left it of course to the Government to decide. On the part of the bank I sought nothing; I requested nothing. After weighing the circumstances, the Government were desirous of adopting the measure, but the difficulty I understood to be this, that the sinking fund would lose the quarter's interest, from July to October, of the sum intended to be paid in July; and that the Government did not feel itself justified in making the postponement unless that interest could be saved, but that it would be made provided the bank would make the sinking fund whole on the first of October. To this, I said that, as the bank would have the use of the fund during the three months, it would consent to save the sinking fund harmless, by paying the three months' interest itself, as the matter stands.

"Now, it will be seen that the bank, in all this, has not had the least agency, except to offer its opinion, when asked, in regard to a measure proposed by the Government, and then to offer its aid in carrying that measure into operation."

"The committee are fully of opinion, that though the bank neither 'sought' for, nor 'requested' a postponement of the payment by the Government, as stated in the declaration of the President, yet if such postponement had not been made, the bank would not, on the first of July, have possessed the ability to have met the demand without causing a scene of great distress in the commercial community."

The next evidence adduced of the bank's opposition to him, is its claim for damages. Of this he gives the following account:

"The bank became the purchaser of a bill drawn by our Government on that of France for about $900,000, being the first instalment of the French indemnity. The purchase money was left in the use of the bank, being simply added to the Treasury deposite. The bank sold the bill in England, and the holder sent it to France for collection, and arrangements not having been made by the French Government for its payment, it was taken up by the agents of the bank in Paris, with the funds of the bank in their hands. Under these circumstances it has, through its organs, openly assailed the credit of the Government; and has actually made, and persists in a demand of fifteen per cent., or $158,842 77 as damages, when no damage, or none beyond some trifling expense, has in fact been sustained, and when the bank had in its own possession on deposite several millions of the public money which it was then using for its own profit. Is a fiscal agent to the Government, which thus seeks to enrich itself at the expense of the public, worthy of further trust?"

1st. It is not correct to state that the bank was the "fiscal agent" of the Government in this matter. On the contrary, the fiscal agency of the bank was offered without any charge to the Government, and declined. The bank did not wish to purchase this bill at all, but proposed to collect it, paying the money only after it had been received by the agents of the bank in France. Thus, when the Secretary of the Treasury wrote to the bank about this bill, the president of the bank, in his answer, dated November 5, 1832, said:

"The bank has already in Paris a larger sum than it has any immediate use for, yet it is not indisposed to increase it, because it may hereafter have occasion for the funds, and because it is believed that if the terms can be made acceptable, the purchase of the whole by the bank would be the best operation by the Government;" and again, in the same letter:

"In regard to the rate, you are the most competent judge of its fitness, and I will merely add, that the bank, not wanting funds in Paris, and believing that they will be lower hereafter, would not make a similar purchase from any other quarter, and is influenced exclusively by the belief that any other arrangement would be less advantageous to the Treasury."

So, in his letter of the 11th February, 1833, "The purchase of the bill is not in the least desirable to the bank, nor would the rate now allowed be given to any other drawer than the Government, for we shall send by the same conveyance which carries your bill a large amount of bills purchased at 5.45, being nearly 1½ per cent. less than the price actually given to the Treasury."

The bank, then, did not wish to purchase the bill. But the bank offered its agency to collect it on the following terms, on the 5th of November, 1832:

"Should you prefer not fixing a rate at present, but to take the chances of a higher rate hereafter, the bank, on receiving your bill, would place the amount of it to the credit of the Government, on the 2d of March, at the current rate of exchange of the best bills of that day in Philadelphia."

Here then was a distinct proposal to collect the bill, just as the bank collects bills for individuals, so that if the bill had, in November, 1832, been sent to the bank, it would have been forwarded to Europe, and if, on the 2d of February, 1833, when it was payable in Paris, it had not been paid, the bank would have been apprized of that fact, and would not have made the payment on the 2d of March, and the whole transaction would have been closed. This course, however, the Government did not adopt; but, after considering the offers for the bill made from other quarters, decided to sell it to the bank.

2d. It is not the fact that this money "was left in the use of the bank, being simply added to the Treasury deposites."

Suppose that it had been, it would not in the slightest degree affect the question of damages? When a party sells a bill, and is paid for it, that is, has the funds placed to his credit, to be drawn whenever he chooses without further notice, the party is as much paid—the fund belongs as little to the bank, as if the party had actually withdrawn the whole sum in specie. But not only was the fund in this case drawn from the general resources of the bank and placed to the credit of the Treasury, but immediately after that was done, Congress passed a law to lend the money, and the Secretary of the Treasury issued a notice that this money was to be forthwith lent out to capitalists, that is to say, to be immediately withdrawn. The credit given to the Treasurer was on the 11th of February, 1833. The notice of the Secretary, dated the 6th of March, offered to lend out this money after the 20th of March; of course the bank could make no use of it; on the contrary, as it would probably be withdrawn immediately, it became not merely useless as a deposite, but required the bank to shape its loans to others so as to provide for the immediate payment.

Nor is this all. Not only was this sum passed to the credit of the Treasurer; not only was the early withdrawal of it from the bank announced by the Secretary, but the identical proceeds of this identical French bill were actually used by the Government for the payment of its ordinary expenses.

The account of the Treasurer at the bank stood thus:

February 11, - - - -	$717,264 22
18, - - - -	1,735,460 40
(in consequence of the payment of the French bill,)	
February 25, - - - -	1,842,658 14
March 4, - - - -	1,620,699 89
11, - - - -	1,551,627 97
18, - - - -	1,560,783 63

March	25,	1,496,907 43
	30,	1,052,862 10
April	8,	1,082,560 88
	15,	918,816 61
	22,	746,613 61
	29,	826,070 90
May	6,	814,046 61
	13,	774,630 47
	20,	431,560 43

when the money was repaid.

It will thus be seen, that there was at the credit of the Treasurer, on the 18th of Feb., the sum of $1,735,460 40, of which $903,565 89 were the proceeds of the French bill, and as in the month of April there was to his credit only $746,613 61, the difference between these two sums, that is to say, $156,952 28, had been drawn for out of that fund of $903,565 89.

Accordingly, when the Treasurer came to repay the money, he had not enough of it remaining; but was obliged to draw on funds elsewhere, so that in acknowledging the receipt of his draft on the 11th of May, 1833, the cashier of the bank added:

"Your transfer check for $700,000 on the office of the Bank of the United States at New York will appear at the credit of your account this day, and will thus prevent the overdraft which the change now advised would otherwise have occasioned."

In the United States then the bank had paid the amount of the bill in its least convenient form. But when it was protested in Paris, the agents of the bank finding a bill with its name upon it protested, came forward and paid it on account of the bank; so that the bank had actually paid for this bill twice over: once in Philadelphia and once in Paris—that is, it had of course a credit for the proceeds of the sale of the bill in London, but its actual disbursements on account of the bill were upwards of $1,800,000.

What makes the case stronger is this—that on the 22d of March, the day when the protested bill came back to the bank, the whole amount to the credit of the Treasury throughout the whole United States, with the exception of the Danish indemnity money, was $1,827,048 88. Now, the bank had advanced $903,565 89 in Philadelphia, and $921,590 18 in Paris, making $1,825,156 07, so that although it had credit in England, for the bill sold there, the bank had actually advanced on account of this bill a sum equal within less than two thousand dollars of the whole funds of the Government in the bank.

When the bill returned protested, the bank, as the endorser, called upon the Government to pay the principal and the damages. It did this as a matter of course. It did it as a matter of the clearest duty to the Government, because if the Government had any right at all to draw the bill, it had a right to make France pay the damages for its breach of contract, and it had no mode of claiming against France, unless in the first instance it paid the damages to the bank, which it might the more readily do; as, being one-fifth partner of the bank, its own share of the $158,000 would be $31,600.

But whether the French Government pays these damages, or not, it is manifest that the American Government must pay them; and this upon the simple principle, not of equity, but of ordinary honesty.

From the foundation of the Government to the present day, whenever the Government has purchased a bill from a private citizen, and that bill has, from whatever cause, returned protested, no matter how hard the case may be, no matter what circumstances of excuse or mitigation may be offered by the citizen, no matter whether damages were actually sustained or not, the Government has rigorously enforced its claim for damages. It has not merely forced a solvent merchant to pay, but has insisted that its claim for damages should have its legal precedence over all the just rights of the other creditors of an insolvent; and now when the case is changed, when the Government sells its own bill to its own citizens, and that bill returns protested, with what propriety, nay, with what pretensions to common honesty, can the Government presume to deny the same justice to its own citizens? The books of the Treasury are crowded with cases of damages exacted by the Government from American citizens; and one is now selected merely from its peculiar aptness to the present occasion.

Some years ago, Mr. Stephen Girard sold to the Treasury four bills, two of which returned protested owing to the insolvency of his correspondent in London; when the two others became due they were paid for the honor of Mr. Girard by the Messrs. Barings, who also agreed to pay the two first in London, as of the day on which they were payable. Mr. Girard applied to Congress for exoneration from the claim of twenty per cent. damages, alleging—

"That from the said sum of £22,500 sterling due on the 18th August last, being passed by Sir Francis Baring & Co. to the credit of the Secretary of the Treasury of the United States, as on the day the same became due, no real loss or damage can accrue to the United States from the said bills being returned under protest."

Congress rejected the claim; and Mr. Girard paid the damages of twenty per cent.

On that occasion, the Committee of Claims called on the Secretary of the Treasury, Mr. Gallatin, and in his answer, which makes part of their report, he says that he had rejected Mr. Girard's claim for four reasons, of which the two most essential are:

"1st. Because, considering the large amount of bills (more than two millions of dollars,) annually purchased on account of Government, it appeared absolutely necessary never to give up the damages whenever a legal right to them had accrued, and because that right has in every instance, without regard to persons or circumstances, been enforced.

"2d. Because, if abandoned in this instance and for that reason, every drawer who was solvent might, by making a remittance to the bankers in Europe, after bills protested for non-payment had been returned to the Treasury, induce them to make a similar offer, and evade the payment of damages."

The lapse of years at last reversed the state of the parties. Mr. Girard becomes the largest stockholder in a corporation called the Bank of the United States, and he and his partners, in the course of their business, purchase a bill from this same officer, the Secretary of the Treasury, which comes back protested after having been twice paid for. Mr. Girard's heirs and his associates apply to the Secretary; not even for the same amount which Mr. Girard formerly paid; not for twenty per cent. the damages in Pennsylvania; but for fifteen per cent. the damages in Washington: and the only answer vouchsafed by the Treasury Department is, that the claim "has no foundation in law or equity"—to which the President now adds, that it is an attempt to "impair the credit of the Government, and tarnish the honor of the country." Such a course tends to an utter confusion of all ideas of justice; nor is it a thing tolerated by the American people, that an individual shall go among the citizens purchasing bills and exacting damages, and when his own bill, sold to these same citizens, returns protested, he shall wrap himself up in his official immunity, and refuse to do to his fellow-citizens which he has compelled them to do to him.

But supposing all to be directly the reverse of what it really is; supposing the claim to be questionable instead of being equitable, is there any thing in it which can at all justify this denunciation of the bank? Here is a claim made by certain American citizens for damages

on a bill of exchange, which they have purchased of the Government. The question is a legal one. The judicial tribunals are to decide it. Yet while the bank is quietly waiting the action of the laws, the President of the United States prejudges the question; denounces the bank for having presumed to make the claim; and gives that to the country as a reason why he should instantly remove a Secretary of the Treasury, in order to subject the whole public revenue of the United States to his own disposal.

In further illustration of the opposition of the bank to his election, he next proceeds to treat of certain acts of the board of directors. The annunciation of these is prefaced by remarks on the magnitude and importance of the facts, their recent disclosure, and their great enormity: and the whole is concluded by a complaint of the "hundreds of thousands and even millions" which may be employed in subverting the liberties of the country and in disparaging the Executive. How little foundation in fact there is for all this will be readily seen by examining the allegations in the order in which they are presented.

First. He says, that "although the charter and rules of the bank both declare that 'not less than seven directors shall be necessary to the transaction of business, yet the most important business, even that of granting discounts to any extent, is intrusted to a committee of five members, who do not report to the board."

Now, the charter does not require seven directors to make discounts.

Nor do the rules of the bank require seven directors.

Nor is it true that any committee of five has this power to discount.

Nor does any committee discount without reporting to the board.

The charter says that "not less than seven directors shall constitute a board for the transaction of business." But the business of the board is not exclusively or primarily to make loans; its business is to govern the whole institution. If the charter required seven directors to make a discount, it would have said so of the boards of directors of the branches, whose more exclusive business it is to discount. But it places no such restriction on the branches, where by far the greater discounts are made. The business of the board is to prescribe how the details of the operations of the bank are to be made; it may delegate a portion of its power of making loans to committees, for in truth to require a board of seven directors to meet before any bill could be discounted, would entirely destroy the most useful operations of the bank; and accordingly the exchange committee meet every day for the purchase of bills, and their purchases are submitted to the board at their next meeting. It would be supposed, from the manner in which it is stated, that this was some recent innovation. So far from it, the discounting of bills of exchange was formerly done by a smaller number than at present. On the 13th of February, 1821, during the administration of Mr. Cheves, and before the time of the present officers, a rule was adopted that—

"In the absence of the exchange committee, the president and cashier shall be authorized to purchase exchange which may be offered for sale, if an immediate answer be desired, and report such purchases to the exchange committee at its next meeting thereafter."

Thus giving the power here complained of to only a single director of the bank. Yet no one ever imagined that it was a violation of the charter. In truth it is a power exercised very generally by the officers of banks throughout the United States.

The second is—"To cut off all means of communication with the Government in relation to its most important acts. At the commencement of the present year, not one of the Government directors was placed on any one committee. And although since, by an unusual remodelling of those bodies, some of those directors have been placed on some of the committees, they are yet entirely excluded from the committee of exchange, through which the greatest and most objectionable loans have been made."

There are two things remarkable in this paragraph—first, the straugeness of the confession; and next, the fallacy of the statement. It is here asserted that not to have the Government directors on committees is to "cut off all means of communication with the Government in relation to its most important acts;" that is to say, that the confidential opinions and the unreserved expressions used by their colleagues on a committee are to be communicated to the Government. It is precisely this fact, thus officially announced, which would make these directors unsafe depositories of the confidence of their colleagues. "At the commencement of the present year," he proceeds, "not one of the Government directors was placed on any one committee." Now, of these directors, who could then be appointed, there were but two residents of Philadelphia; the third not having yet been appointed. Why these two directors, one of whom had just come, for the first time, into a banking institution, were not named on the committees, in the place of old and valued directors, it would be more invidious than difficult to decide; but that there was no studied exclusion was obvious from the fact that, at the very next quarterly appointment, two out of the three Government directors were placed on committees. Nor is there any foundation for the assertion that an "unusual remodelling" of these committees has taken place. On the contrary, the committees were appointed quarterly, as they have for years been appointed, and not the slightest remodelling of them, usual or unusual, has taken place. As to the exchange committees, who are charged with the arrangement of the foreign and domestic exchanges of the bank, requiring commercial experience and knowledge of the business and the credit of individuals, those who are presumed most qualified are most naturally chosen. These directors have no claim to the slightest distinction above their colleagues, and they must take their chance with the other members in the formation of committees. In truth, men will choose their associates on committees, as in every thing else, from confidence in their capacity or their personal qualities; and not to be chosen to places of trust implies only that others are more trusted.

The third is—"It has long been known that the president of the bank, by his single will, originates and executes many of the most important measures connected with the management of the credit of the bank; and that the committee, as well as the board of directors, are left in entire ignorance of many acts done, and correspondence carried on, in their names, and apparently under their authority."

An assertion so general, can only be met by as general a denial; at the same time, the committee deem it their duty to declare, that this allegation, so positively made, as of a known and acknowledged fact, while it charges the board of directors with a dereliction of their duty, and a surrender of their trust, does the greatest and most flagrant wrong to the officer who presides over this institution. This officer has devoted eleven years of the best portion of his life, and all his time and all his talents during that period, to the service of the bank: he has, at all times, consulted freely with the directors, and has never sought to make his "single will" the law of the bank. The proofs of the ability and integrity of his administration are to be read in the prosperity and strength of the institution; in the reiterated approbation of the stockholders; and in the unwavering confidence of the successive boards of directors who have been the witnesses of his labors. And the committee confidently believe, that such proofs can never be obliterated by such sweeping

declarations, let them emanate from what source they may.

The fourth is in the following passage:

"The expenditures purporting to have been made under authority of these resolutions, during the years 1831 and 1832, were about 80,000 dollars."

This, too, is another misstatement. The expenditures purporting to be made under these resolutions during the years 1831 and 1832, were, as will be explained in this report, exactly $48,287 90.

The fifth is, "that publications have been prepared and extensively circulated, containing the grossest invectives against the officers of the Government; and the money, which belongs to the stockholders and to the public, has been freely applied in efforts to degrade, in public estimation, those who were supposed to be instrumental in resisting the wishes of this grasping and dangerous institution."

"The fact has been recently disclosed, that an unlimited discretion has been, and is now, vested in the president of the bank to expend its funds in payment for preparing and circulating articles, and purchasing pamphlets and newspapers, calculated by their contents to operate on elections and secure a renewal of its charter."

Here are two mistakes. It is not true that any "publications have been prepared and extensively circulated, containing the grossest invectives against the officers of the Government." Nor is it true that any power is vested in the president "for preparing and circulating articles, and purchasing pamphlets and newspapers, calculated by their contents to operate on elections, and secure a renewal of its charter." No such power is given, and no such power is exercised.

The power actually given, which has been exercised, and will continue to be exercised, is for the defence of the bank against the calumnies with which, for four years, the institution has been pursued. The sixth is,

"The fact that the bank controls, and, in some cases, substantially owns, and by its money supports, some of the leading presses of the country, is now more clearly understood."

This whole allegation is denied.

The bank does not now control, and never did control, any press whatever; the bank does not own, and never did own, any press; the bank does not now support, nor did it ever support, by its money, any press. Created for the purpose of giving aid to every branch of industry, it has not presumed to proscribe the conductors of the press from their share of the accommodation due to their capital and industry. Of the extent and the security of these loans, the directors claim the exclusive privilege of judging.

The course of this inquiry has now brought the committee to the second paper referred to them by the board, signed by the Government directors. It appears from their report that the President of the United States addressed a letter to them, "directing them to examine and report upon the expense account of the Bank of the United States for the last two years," and particularly "that portion which embraced expenditures calculated to operate on the elections"—which examination they state, "undoubtedly present circumstances which, in our opinion, warrant the belief you have been led to entertain." This assertion of a right in the President of the United States to inquire into the expenses of the bank, with a view to ascertain whether any money was expended which might directly or indirectly interfere with his own personal election, is alike novel and untenable. His authority, as we have seen, is limited to the power of issuing a scire facias. But in no part of the charter of the bank, in no law of this country is there found any power in the President to interfere in the internal concerns of the institution, or to direct secret investigations. But that which they regard with surprise and regret is, that these directors, having such a commission to execute from the President, never communicated the fact to their colleagues, nor to the officers of the bank, and while these officers were giving to them the freest and most unreserved access to all the books and papers of the bank, and while their colleagues were sitting in perfect confidence by their sides, neither those officers nor the directors had the remotest suspicion of this official investigation into their conduct, begun nearly two months before, under orders of the President—until they read it in the newspapers. When, at the meeting of the board, after its publication, the subject was introduced, one of the Government directors in effect acknowledged that they had purposely concealed their object, lest if their colleagues had been aware of it, they would not have permitted it. What the committee deem, therefore, a subject of just complaint, is the want of candor in thus trying their colleagues, without apprizing them that they were on trial, or giving them any chance of knowing or answering the charges made against them by the President.

The report itself bears manifest evidence of the haste with which it was prepared. Thus "we proceed," say they, "to look into such of the vouchers on which they are founded as we had time and opportunity to do." They state that they would have sent copies of these vouchers, but "the time and labor necessary for this mode would have prevented our resorting to it at present." When, the truth is, that a few hours of tranquil industry would have enabled them to copy every word of these vouchers.

Again they say, "we are obliged to depend on our own partial inquiries." The errors of this hasty and partial inquiry the committee will now proceed to notice.

1st. The first impression attempted to be made is that, whatever is here stated are discoveries of things hitherto concealed, and which now see the light in consequence of their exertions. Thus they speak of the expenditures "discovered by us," and of their "investigations," that they requested a particular statement from the board, which "request was not complied with," and that they were "obliged to depend on their own partial inquiries." And, finally, they say, with an air of despondency, "we must infer from the course pursued by the board, when our resolutions were submitted to them, that a more exact statement can only be obtained by an agent directly authorized by the Executive." Nothing can be more erroneous than such an impression. No one concealed, no one desired to conceal, no one could conceal, this whole matter. The resolutions of the board were on the minutes, the expenses under them were all recorded in a book, the vouchers all referred to by number in that book; and all of them, minutes, expense book, and vouchers, were always to be seen and examined by the directors, so that the whole process of discovery was to ask for the books and vouchers, and to receive them. In the same spirit, they remark that, "the expense account, as made up in the book which was submitted to us, contained very little information relative to the particulars of this expenditure, and we were obliged, in order to obtain them, to resort to an inspection of the vouchers." What did these directors expect in an expense book? This book contains the name of the party, the sum paid, and the number of the voucher which supports it; and the voucher is at hand to verify it. If they meant that each item of each account should be copied into this expense book, they mean that which no expense account ever did contain, or ever ought to contain; and the objection shows only the spirit in which the inquiry was conducted.

2d. Another effort is to make it appear that these expenditures were exclusively at the bank in Philadelphia, leaving of course, the inference open, that the expenditures at the branches might be in the same proportion. "All expenditures of this kind," say the committee,

"introduced into the expense account, and discovered by us, we found to be, so far as regards the institution in this city, embraced under the head of stationary and printing."

Now, the truth is, that these expenses were not confined to Philadelphia, but embraced all the United States. The expense book showed, and the vouchers proved, that these expenditures were made in various and remote parts of the Union—a fact too apparent to escape immediate observation.

3d. The next misrepresentation is this. After quoting the resolution, they proceed: "In pursuance, it is presumed, of these resolutions, the item of stationary and printing was increased, during the first half of the year 1831, to the enormous sum of $29,979 92."

Now, it appears on the very face of the expense account, that the increase of this *enormous* sum, so far from having been occasioned by these resolutions, was caused by the purchase of large quantities of paper and engravings for bank notes, and by the supply of common stationary for the bank.

The enormous sum in question was			$29,979 92
This consisted of the following items:			
Common stationary,		$1,080 32	
Printing blank forms and rules,		443 76	
Books,		267 68	
Newspapers,		179 91	
Engraving bank notes,		4,178 38	
Paper,		300 00	
Silk for making paper,		2,886 67	
Sheeting for do		1,421 94	
Silks for do		2,121 64	
Silks for do		788 13	
Subscription to the Coffee-house,		10 00	
		$13,678 42	
Printing and circulating Mr. Gallatin's book on banking,	$3,941 23		
Do, Smith and McDuffie,	2,512 06		
Reviews and address to legislatures and miscellaneous items,	9,848 21		
		$16,301 50	
			$29,979 92

So that this *enormous* increase was occasioned, in a great degree, by having a new set of bank notes prepared and engraved, amounting to $11,600 75—and moreover, nearly one-half of this enormous increase has no relation to the expense to which it is meant to ascribe it.

4th. The next is, that among the expenditures noted, is one of $1,447 75, for printing, "agreeably to order and letter from John Sergeant, Esq." The gratuitous introduction of the name of this gentleman is obviously designed to connect his agency with some political purpose. But there is not the slightest foundation for it. The fact itself was known to the Committee of Investigation in 1832, and although urged to make the same use of it as is now attempted, they had too much sense of justice and honor to employ it. The truth is this: Early in the year '31, while Mr. Sergeant was a member of the board of directors, he received a letter from Mr. Wilson, a very respectable printer in Steubenville, proposing to print the report of Messrs. Smith and McDuffie about the bank. Mr. Sergeant presented this letter to the officer of the bank who was charged by the board with the multiplication of these reports, and was requested by him to apprize Mr. Wilson that he might print a certain number of copies. He did so. In sending his account, as he had not communicated with any officer of the bank, he referred to his authority to do the work as having come through Mr. Sergeant, and thus the receipt stands. So that the whole agency of Mr. Sergeant was to answer an application to him as a director, from a printer, to print some reports of committees of Congress and other documents on the concerns of the bank.

5th. The next is, the effort to make it appear that all the expenses reported had been made to influence public elections. This is not expressly asserted, but it is so stated as inevitably to convey that impression. Thus they say: "We deemed it expedient at present to confine our investigations to that portion which embraced expenditures calculated to operate on the elections. All expenditures of this kind, introduced into the expense account, and discovered by us, we found to be, so far as regards the institution in this city, embraced under the head of stationary and printing. To it, therefore, we chiefly directed," &c.

Then follows a list of expenses, all of which it is intended to represent as calculated to influence elections. Thus, in the case just cited, they proclaim the enormous sum of $29,979 92, which they presume to have been expended in pursuance of the resolutions, and of course as having a bearing on elections. Now we have just seen that of this whole $29,000, more than $13,000 were for bank notes and miscellaneous stationary; that $3,941 23 was for Mr. Gallatin's book on currency, which could have no possible connexion with elections; that $2,500 were for reprinting Mr. McDuffie's and General Smith's reports, which Congress itself had reprinted in unusual numbers, and that of the whole remaining sum of $10,000 for miscellaneous expenses, none could be spent on elections, from the simple fact, that in this first half year of 1831, no elections of any kind in which the bank could, by any possibility, have an interest, were impending for eighteen months to come, or even in remote agitation; yet this report would convey to the majority of readers the belief that the whole of the $29,000 were lavished upon elections.

But the most signal error is reserved for the last.

They say "it appears by the expense account of the bank for the years 1831 and 1832, that upwards of $80,000 were expended and charged under the head of stationary and printing during that period; and that a large proportion of this was paid to the proprietors of newspapers and periodical journals; and for the printing, distribution, and postage of immense numbers of pamphlets and newspapers," &c. Now, it is true that the expense of printing and stationary for those two years was upwards of $80,000, but by using the vague phrase of a "large proportion" and "immense numbers," the impression conveyed to the mind is, that the whole or nearly the whole of this amount must have been disbursed for the object to which the President objects; and, accordingly, the President, in his paper, states in so many words, that "the expenditures purporting to have been made under authority of these resolutions during the years 1831 and 1832, were about $80,000," and thus the misstatement insinuated in the report becomes declared in the manifesto.

Now, these directors must have perceived that of these $80,000—

There were paid for making and printing bank notes,	$24,591 96
For printing forms and other necessary papers,	1,848 08
For books and stationary,	6,053 88
For various miscellaneous expenses,	653 25
Making a total of	$33,593 76

So that, at once, more than thirty-three thousand dollars of the eighty thousand dollars are shown to have no connexion whatever with the matter of this reproach.

It is moreover to be observed, that the committee of investigation of 1832 examined the subject; had this very expense book before them; remark in their report the

increase of the expense of printing, but it may be presumed that neither they, nor any other authority till now, thought such a subject worthy of being pursued.

Having thus exposed the errors of this report, the committee will briefly state the facts in regard to these disbursements.

The course adopted by the bank has been simple, plain, and avowed. It is this:

The Bank of the United States, like every other bank, derives much of its advantages from its credit and its general reputation for solvency; and the directors are, therefore, bound by official as well as personal considerations, to remove unfounded prejudices, and to repel injurious calumnies on the institution intrusted to their care.

Soon after the first message to Congress, issued by the signer of the present paper, it became necessary to counteract the schemes for the destruction of the bank, by the diffusion of intelligence among the people; accordingly the following resolutions have been adopted by the board:

On the 30th of November, 1830, "the President submitted to the board a copy of an article on banks and currency, just published in the American Quarterly Review of this city, containing a favorable notice of this institution, and suggested the expediency of making the views of the author more extensively known to the public than they can be by means of the subscription list—whereupon it was, on motion,

"Resolved, That the President be authorized to take such measures in regard to the circulation of the contents of said article, either in the whole or in part, as he may deem most for the interest of the bank."

On the 11th of March, 1831, "the President stated to the board that, in consequence of the general desire expressed by the directors at one of their meetings of last year, subsequent to the adjournment of Congress, and a verbal understanding with the board, measures had been taken by him in the course of that year, for printing numerous copies of the reports of General Smith and Mr. McDuffie, on the subject of this bank, and for widely disseminating their contents through the United States; and that he had since, by virtue of the authority given him by a resolution of this board adopted on the 30th November last, caused a large edition of Mr. Gallatin's Essay on banks and currency to be published and circulated in like manner, at the expense of the bank. He suggested, at the same time, the expediency of extending still more widely a knowledge of the concerns of this institution, by means of the republication of other valuable articles, which had issued from the daily and periodical press.

"Whereupon, it was, on motion,

"Resolved, That the President is hereby authorized to cause to be prepared and circulated, such documents and papers as may communicate to the people information in regard to the nature and operations of the bank."

And finally, on the 16th of August, 1833, the following resolution:

"Resolved, That the board have confidence in the wisdom and integrity of the President, and the propriety of the resolution of the 30th of November, 1830, and 11th of March, 1831—and entertain a full conviction of the necessity of a renewed attention to the objects of the resolution; and that the Presideut be authorized and requested to continue his exertions for the promotion of said objects."

The resolutions of 1830 and 1831 were passed openly and unanimously by the board, the two Government directors who attended concurring in them—and they have been carried into effect without the least reserve or secrecy. The form of the resolution was the same as that adopted on a kindred subject—the arrest of counterfeiters—a short time previous, on the 25th of October, 1830:

"Resolved, That the president of this bank be authorized to take whatever measures he may think proper for the discovery and arrest of counterfeiters of the notes and drafts, and to incur such expenses from time to time in effecting that object as he may deem useful or necessary."

The expenses incurred, as stated in the expense account, in executing these resolutions, from December, 1829, when the first assault was made on the bank by the President to the present time, running through the years 1829, 1830, 1831, 1832, and 1833, amount to $58,265 05, making an average for the last four years of $14,583 76 a year.

During that period, the total expenses under the head of printing and stationary, amounted to - - -		$105,057 73
Of which the proportion for the defence of the bank was	58,265 04	
And for the miscellaneous expenses of books and stationary, - -	46,722 69	
		$105,057 73

This will be seen most perspicuously in the following statement:

	Printing and circulating Reports to Congress.	*Speeches in Congress and other Miscellaneous publications.*	*Books and Stationary.*
1830,	$5,085 67	$2,291 47	$6,704 33
1821,	2,650 97	19,057 56	21,496 26
1832,	4,395 63	22,183 74	12,098 57
1833,		2,600 00	6,493 53
	$12,132 27	$46,132 77	$46,792 69

So that the general result is, that within four years past the bank has been obliged to incur an expense of $58,000 to defend itself against injurious misrepresentations.

This has been done with regret that it should be necessary, but with the strongest conviction of its propriety, and without the slightest wish either to disavow or to conceal it. On the contrary, the bank asserts its clear right to defend itself equally against those who circulate false statements and those who circulate false notes. Its sole object, in either case, is self-defence. It cannot suffer itself to be calumniated down, and the interests confided to its care sacrificed by falsehoods. A war of unexampled violence has been waged against the bank. The institution defends itself. Its assailants are what are called politicians, and when statements which they cannot answer are presented to the country, they reproach the bank with interfering with politics. As these assaults, too, are made at the period of public elections, the answers of the bank must of course follow at the same time; and thus, because these politicians assail the bank on the eve of elections, unless the institution stands mute, it is charged with interfering in politics and influencing elections. The bank has never interfered in the slightest degree in politics, and never influenced or sought to influence elections; but it will not be deterred by the menaces or clamors of politicians, from executing its duty in defending itself. Of the time and manner and degree and expense connected with this service, the board of directors claim to be the sole and exclusive judges. Whether the defence is too costly, is for the stockholders, whose interests are sustained by it, to decide; but certainly, the assailants themselves have no right to complain of the expenses they have occasioned. Their own duty in the full proportion which may be needed for defending the institution intrusted to them, the board of directors will cheerfully and zealously perform.

The committee conclude this examination by offering as the result of their reflections the following resolution:

Resolved, That the removal of the public funds from the Bank of the United States, under the circumstances, and in the manner in which it has been effected, is a violation of the contract between the Government and the bank; and that the President be instructed to present a memorial to Congress, requesting that redress should be afforded for the wrong which has been done to the institution.

MR. DUANE'S ADDRESS TO THE PEOPLE OF THE UNITED STATES.

Fellow-Citizens: I announced, on the 20th ultimo, that, at an early day, I would appear before you, at least to repel imputations cast upon my character, contained in a publication in the Globe, the official paper of the Executive, of the preceding day.

If the calumnious attack referred to had not been obviously sanctioned by the President of the United States, such is the character of the newspaper under his protection, that I should not have felt myself called upon to notice it.

In addressing you, I have hesitated between the adoption of a general exposition, and a brief defensive address, accompanied by that part of the correspondence between the President and myself which the official paper seems to have challenged me to produce. I adopt the latter course. In the correspondence you will find ample materials for an accurate comprehension of my case—one of insult and oppression.

On the 4th of December, 1832, without any solicitation on my part, I was unexpectedly invited to accept the office of the Secretary of the Treasury. I sought to shun the station, did not consent to serve until asked for my decision on the 30th of January, and then consented reluctantly.

No doubt, subsequently to, as before, the adjournment of Congress, speculators, for their own selfish ends, agitated the deposite question, and kept up an excitement, felt by the President; but it was never intimated to me that he desired to concentrate in himself the power to judge and execute—to absorb the discretion given to the Secretary of the Treasury—and even to nullify the law itself. I never heard until after my entry into office, that he meant to remove the deposites, without further inquiry by Congress, or that he had asked the opinion of the members of the cabinet on the subject; on the contrary, when, after having entered the Treasury Department, unpledged, untrammelled, and unsuspicious, I was informed of what was meditated, I felt surprise at the intelligence, and mortification at the manner in which it was communicated to me.

On the 3d of June, the President himself made known to me what was in contemplation, and that he had taken the opinions of the members of the cabinet on the point; two of whom concurred with him, two of whom did not concur, and the fifth had not yet given a written opinion. He said he would submit to me the written *opinions* of the four members of the cabinet, with his own *views*, and that he would expect me to give him my opinions frankly and fully. As if to urge me to avoid all reserve, he assured me, in a letter dated *Boston, June* 26, transmitting the *opinions* and *views*, that "it was not his intention to interfere with the independent exercise of the discretion committed to me by law over this subject."

But, when, on the 10*th July*, I gave my opinions frankly and fully, as an honest minister and man should do, there was every return but that of approbation. On the contrary, on the 22*d of July*, I was asked whether it was my intention to refuse to remove the deposites, if, after inquiry by an agent, and advisement with the cabinet, the President should decide to remove them, as, in such case, it "would become his duty, in frankness and candor, to suggest the course which would be necessary on his part."

Not on my own account, but as an act of duty to the country, I now subjected my pride and feelings to restraint, by tendering, in order to avert a present hostile breach, a future surrender of my post, in case I should not ultimately concur with the President. But, before my concurrence or non-concurrence was made known, and whilst I still held in my hands the manuscript exposition which was read in the cabinet on the 18*th September*, and then delivered to me by the President for my consideration, he virtually dismissed me as an officer, and insulted me as a man, by causing the official annunciation, hereto appended, No. 1, to be published in the Globe of the 20th September.

Yet, after this, when it must have been obvious that, independently of other considerations of great weight, I was absolved from all respect for any past assurance, my letter No. 2, which I personally presented to the President on the 21*st of September*, according to my promise of *September* 19, was contumeliously sent back to me, in letter No. 3, intimating the existence of improper imputations in mine, No. 2, calling my attention to my assurance of July 22, and inquiring whether I could concur in removing the deposites. From this letter, No. 3, it must be evident that when it was written, my dismissal was not then deemed justifiable on grounds subsequently suggested; for, when the President wrote it, he knew the contents of the letter deemed offensive, and yet he held the correspondence open.

What, then, I ask, subsequently occurred? Instead of treating this new indignity, the return of my letter, with silence, or evincing any other mode of dissatisfaction, I felt that I was on duty at a public post, and that I ought not to suffer it to be taken by surprise. I could not now mistake, in concluding that it was intended to insult me out of office, or to draw from me some expression, which might form a pretext for my removal on a minor point, so doubtful was the President, after all, of the propriety of removing an officer for not yielding, when desired, the discretion given to him by law.

Accordingly I sent letter No. 4, subsequently withdrawn for alteration, and then letters Nos. 5 and 6—No. 5 especially—because the President did not seem to comprehend me when, in my letter No. 2, I said that, after what had occurred subsequently to July 22, I felt myself absolved from all obligation to observe the assurances given at that time.

These last appeals, indicative of any thing but bad feeling or disrespect, were also sent back to me in letter No. 7, declaring my services no longer necessary. I submit to all just men to determine by whom an assurance was given, and without cause disregarded.

Thus was I thrust from office—not because I had neglected any duty—not because I had differed with the President on any other point of public policy—not because I had differed with him about the Bank of the United States—but, because I refused, without further inquiry or action by Congress, to remove the deposites.

If, in my letter No. 2, there is any thing that should not have been there, I ask it to be borne in mind that it was written under a deep sense of injury and insult.

I appeal to all prior letters and intercourse, to show, that I had not on any occasion forgotten my respect for the Chief Magistrate, or for myself; and I deny that, in any letter, there was inaccuracy of fact, with my knowledge.

As I considered my removal inevitable, I asked, in my personal interview, and by letter No. 6, such order as, when shown to the representatives of the people, would be any apology for leaving the station under my care. Had such order been given, all subsequent unpleasantness would have been prevented; for the present result I am not accountable.

If any doubt existed as to the propriety of submitting the annexed letters to the public eye, it is removed by the example set by the President in the attack which he has sanctioned, and against which this is my defence.

I appeal to the justice and generosity of all publishers of newspapers who have inserted therein the attack upon me, whether I have not a claim upon them to allow me to be heard, by publishing the present letter, and the annexed documents. Very respectfully yours,

Philadelphia, December 2, 1833. W. J. DUANE.

No. 1.

From the Globe of September 20, 1833.

We are authorized to state that the deposites of the public money will be changed from the Bank of the United States to the State banks, as soon as necessary arrangements can be made for that purpose, and that it is believed they can be completed in Baltimore, Philadelphia, New York, and Boston, in time to make the change by the first of October, and perhaps sooner, if circumstances should render an earlier action necessary on the part of the Government.

It is contemplated, we understand, not to remove at once the whole of the public money now on deposite in the Bank of the United States, but to suffer it to remain there until it shall be gradually withdrawn by the usual operation of the Government. And this plan is adopted in order to prevent any necessity, on the part of the Bank of the United States, for pressing upon the commercial community; and to enable it to afford, if it think proper, the usual facilities to the merchants. It is believed that by this means the change need not produce any inconvenience to the commercial community, and that circumstances will not require a sudden and heavy call on the Bank of the United States, so as to occasion embarrassment to the institution or the public.

No. 2.

The Secretary of the Treasury to the President of the United States.

Treasury Department, September 21, 1833.

Sir: I have the honor to lay before you—

1. A copy of my commission, empowering and enjoining me to execute my duty according to law, and authorizing me to hold my office at your pleasure.

2. A copy of my oath of office, wherein I solemnly pledged myself to execute the trust confided to me with fidelity.

3. A copy of the 16th section of the law chartering the Bank of the United States, whereby the discretion to continue the deposites of the public money in that bank was committed to the Secretary of the Treasury alone.

4. An extract from your letter to me of the 26th of June, wherein you promise not to interfere with the independent exercise of the discretion committed to me by (the above-mentioned) law, over the subject.

5. An extract from your exposition of the 18th instant, wherein you state that you do not expect me, at your request, order, or dictation, to do any act which I may believe to be illegal, or which my conscience may condemn.

When you delivered to me, on the 18th inst. the exposition of your views, above referred to, I asked you whether I was to regard it as direction, by you to me, to remove the deposites; you replied that it was your direction to me to remove the deposites, but upon your responsibility; and you had the goodness to add, that, if I would stand by you, it would be the happiest day of your life.

Solemnly impressed with a profound sense of my obligations to my country and myself, after painful reflection, and upon my own impressions, unaided by any advice such as I expected, I respectfully announce to you, sir, that I refuse to carry your directions into effect.

1. Not because I desire to frustrate your wishes, for it would be my pleasure to promote them, if I could do so, consistently with superior obligations.

2. Not because I desire to favor the Bank of the United States, to which I have ever been, am, and ever shall be, opposed.

3. Not to gratify any views, passions, or feelings of my own—but

4. Because I consider the proposed change of the depository, in the absence of all necessity, a breach of the public faith.

5. Because the measure, if not in reality, appears to be vindictive and arbitrary, not conservative or just.

6. Because, if the bank has abused or perverted its powers, the Judiciary are able and willing to punish; and in the last resort, the representatives of the people may do so.

7. Because the last House of Representatives of the United States pronounced the public money in the Bank of the United States safe.

8. Because, if, under new circumstances, a change of depository ought to be made, the representatives of the people, chosen since your appeal to them in your veto message, will in a few weeks assemble, and be willing and able to do their duty.

9. Because a change to local and irresponsible banks will tend to shake public confidence, and promote doubt and mischief in the operations of society.

10. Because it is not sound policy in the Union to foster local banks, which, in their multiplication and cupidity, derange, depreciate, and banish the only currency known to the constitution, that of gold and silver.

11. Because it is not prudent to confide, in the crude way proposed by your agent, in local banks, when on an average of all the banks, dependent in a great degree upon each other, one dollar in silver cannot be paid for six dollars of the paper in circulation.

12. Because it is dangerous to place in the hands of a Secretary of the Treasury, dependent for office on Executive will, a power to favor or punish local banks, and consequently make them political machinery.

13. Because the whole proceeding must tend to diminish the confidence of the world in our regard for national credit and reputation, inasmuch as, whatever may be the abuses of the directors of the Bank of the United States, the evil now to be endured must be borne by innocent persons, many of whom, abroad, had a right to confide in the law that authorized them to be holders of stock.

14. Because I believe that the efforts made in various quarters to hasten the removal of the deposites, did not originate with patriots or statesmen, but in schemes to promote selfish and factious purposes.

15. Because it has been attempted by persons and presses known to be in the confidence and pay of the administration, to intimidate and constrain the Secretary of the Treasury to execute an act in direct opposition to his own solemn convictions.

And now, sir, having with a frankness that means no disrespect, and with feelings such as I lately declared them to be, stated to you why I refuse to execute what you direct, I proceed to perform a necessarily connected act of duty, by announcing to you that I do not intend voluntarily to leave the post which the law has placed under my charge, and by giving you my reasons for so refusing.

It is true, that, on the 22d of July, you signified in language sufficiently intelligible, that you would then remove me from office unless I would consent to remove the deposites, on your final decision; it may also be true that I should then have put it to the test; and it is also true, that, under a well-grounded assurance that your bank plan, the only one then imbodied in the instructions

drawn up by me for your agent, would be, as it proved, abortive, that for this and other causes, you would be content, I did state my willingness to retire, if I could not concur with you.

But I am not afraid to meet the verdict of generous men, upon my refusal, on reflection, and after what has since occurred, to do voluntarily what I then believed I never should be asked to do. If I had a frail reputation, or had any sinister purpose to answer, I might be open to censure for a neglect of punctilious delicacy; but I can have no impure motives, much less can I attain any selfish end: I barely choose between one mode of retirement and another: and I choose that mode which I should least of all have preferred, if I had not exalted and redeeming considerations in its favor.

I have, besides, your own example; I do not say, that after you had promised "not to interfere with the independent exercise of the discretion vested in me by law," you were wrong in interfering, if you really thought the public welfare a superior consideration to a mere observance of assurances made to me; nor can you say that I err, when upon a solemn sense of duty, I prefer one mode of removal from this station to another.

This course is due to my own self-preservation, as well as to the public, for you have, in all your papers, held out an assurance that you would not "interfere with the independent exercise of the discretion committed to me by law," over the deposites; and yet, every thing but actual removal of me from office has been done to effect that end. So that, were I to go out of office voluntarily, you might be able to point to official papers that would contradict me, if I said you interfered, and I should thus be held up as a weak or faithless agent, who regarded delicacy not shown to himself more than duty to his trust.

Sir, after all, I confess to you that I have had scruples, for it is the first time that I have condescended to weigh a question of the kind: but I am content that it shall be said of me that, in July last I forgot myself, and my duty too, rather than that it should be said that, now knowing the course that you pursue, I had in any way favored it; on the contrary, if I have erred, I am willing to be reproved, but my motives no man can impugn.

My refusal to resign cannot keep me, one moment longer than you please, in an office that I never sought, and at a removal from which I shall not grieve on my own account; it must, on the contrary, hasten my exit. So that, if you shall proceed in wresting from the Secretary of the Treasury the citadel in his possession, the act can only be accomplished by a mandate which will be my apology for no longer standing in the breach.

And now, sir, allow me to repeat to you in sincerity of heart, that in taking the present course, under a solemn sense of my obligations, I feel a sorrow on your account, far greater than on my own. I have been your early, uniform, aud steadfast friend; I can have no unkind disposition, but shall cherish those of a kind nature, that I feel. You proudly occupy the hearts of your countrymen; but still it is the lot of humanity, at times, to err. I do ample justice to your motives, but I am constrained to regret your present proceedings, and I devoutly wish that you may live to see all my forebodings contradicted, and your measures followed by results beneficial to your country, and honorable to yourself.

With the utmost consideration, your obedient servant,

W. J. DUANE.

No. 3.

The President of the United States to the Secretary of the Treasury.

Washington, September 21, 1833.

Sir: After you retired, I opened and read the paper you handed to me. I herewith return it, as a communication which I cannot receive. Having invited the free and full communication of all your views, before I made up a final opinion upon the subject, I cannot consent to enter into further discussion of the question.

There are numerous imputations in the letter, which cannot, with propriety, be allowed to enter into a correspondence between the President and the head of a Department. In your letter of July last you remark—"But, if, after receiving the information and hearing the discussion, I shall not consider it my duty, as a responsible agent of the law, to carry into effect the decision that you may then make, I will, from respect to you, and to myself, afford you an early oppnrtunity to select a successor whose views may accord with your own on the important matter in contemplation." My communication to my cabinet was made under this assurance received from you; and I have not requested you to perform any thing which your sense of duty did not sanction. I have merely wished to be informed whether, as Secretary of the Treasury, you can, consistently with your opinion on the subject of the deposites, adopt such measures in relation to them as in my view the public interests and a due execution of the laws render proper. If you will now communicate that information, it will confer an obligation on

Your obedient servant,

ANDREW JACKSON.

No. 4.

The Secretary of the Treasury to the President of the United States.

Treasury Department, September 21, 1833.

Sir: I have the honor to acknowledge the receipt of your note returning the communication that I presented to you this morning; the grounds on which it is returned are, that further discussion of the deposite question is unnecessary, and that there were imputations therein that could not be admitted into a correspondence between the President and the head of a Department.

Allow me respectfully to say, that it was not with a view to a further discussion, that I presented my reasons for declining to act, agreeably to your direction, in removing the deposites, but to justify my refusal; nor was it my desire or intention that any matter contained in my letter should be disrespectful, or open to such a supposition; that any thing therein should be so construed I very much regret.

My object throughout was to justify the course, on the two points stated in my letter, which, under the most solemn impressions, I felt it to be my duty to pursue.

To show you my obligations, I presented a copy of my commission, a copy of my oath of office, and a copy of the law giving the Secretary of the Treasury the discretion to change the public depository; to show you upon what I relied, in my course of conduct, I quoted your letter of June 26th, and your exposition of the 18th instant. In order to justify my refusal to resign, I described the circumstances under which your letter of July 22d, and my reply of the same date, were written, and showed the new posture in which I was placed by subsequent reflection and occurrences.

When I entered your administration, I had no knowledge that you had come to any decision on the deposite question, or that you meditated a change of depository without the action of Congress.

As soon as I was made acquainted with your views, I anxiously sought to accord with them: and as you invited a full disclosure of my thoughts, by assuring me, in your letter of the 26th of June, that you did not intend to interfere with the independent exercise of the discretion committed to me by law over the deposites, I opened myself freely to you, against any change of the depository; at all subsequent stages, although I have kept myself open to explanation, I have invariably declined to make that change, and I remain in the same resolution still.

Permit me respectfully to say, that I am not aware that my willingness or unwillingness to afford you an opportunity to select a successor could have had any influence or bearing upon any question before the cabinet; but I am willing to meet that consideration, as well as those stated to you this day in our interview.

In short, sir, as I stated to you in that interview, my course is justificatory towards you: I desire no unkind feeling, I have no unkind purpose: however ardent or unusual my language may be, it is at least sincere.

Allow me, then, very respectfully to state, as declared at our interview, that, under the most serious convictions of my duty, I refuse to aid, assist, or in any way participate, in the proposed change of the public depository; that I refuse to relinquish a post conferred upon me by the law; and that, without in the most remote degree meaning any sort of disrespect to you, I protest against any interference, on your part, with powers and duties which, I believe, were designedly withheld from the President, and committed to the Secretary of the Treasury, the fiscal agent of the law.

With fervent wishes that your measures may conduce to the advantage of your country, and to the honor of yourself,

I am, with the utmost consideration,
Your obedient servant,
W. J. DUANE.

No. 5.

The Secretary of the Treasury to the President of the United States.

Treasury Department, September 21, 1833.

Sir: Allow me, with great respect, to present to you another view, in addition to those stated in my letter of this date.

If I understand your wish, as it is to be collected from your note of this date, which I have just now again perused, it is to hold me, on principles of delicacy, at least, to my assurance of July 22d, that unless I agreed with your decision, after inquiry and discussion, I would promptly afford you an opportunity to obtain a successor according in your views.

I pray you dispassionately to consider whether you did not absolve me, even upon principles of delicacy, from all obligation upon this view of the matter.

1. On Wednesday, September 18, I signified in cabinet my desire to take and examine your exposition: you gave it to me, saying, in reply to my inquiry as to your direction, that I was to consider myself directed to act on your responsibility.

2. On Thursday morning, September 19, you applied to me to know if I had come to a decision, and I returned by your messenger, who brought your note, this reply:

"*To the President of the United States:*

"Sir: Upon a matter that deeply concerns not only myself, but all who are dear to me, I have deemed it right, as I have not a friend here to advise with, to ask the counsel of my father at this crisis. I wrote to him last night, and am sure that nothing but sickness will prevent his presence to-morrow night; on the next day, I trust that I shall be able to make a communication to you.

"With the utmost respect,
"Your obedient servant,
"WM. J. DUANE.

"September 19, 1833."

3. On the same day, (Thursday, 19th September,) your Private Secretary, Major Donelson, called on me to say, that you proposed to publish in the Globe of next day, your decision: I replied that I thought you ought not, that I was not a party to it, and, as a matter of delicacy to myself, could not approve of it.

Lest words should be forgotten, I wrote and delivered to Major Donelson this reply:

"*A. J. Donelson, Esq.:*

"Dear Sir: The world is so censorious, that I am obliged, upon reflection, to express to you my hope that you will not regard me as approving of any publication; it would seem to be but delicate to defer such an act until I shall either concur or decline; however, all that I desire to have understood is, that I do not approve of the course you mentioned. Were I the President, I would consult, at least reasonably, the feelings of a man who has already anxiety enough. As to the newspapers, they will know what has been done, without an official communication.

"Very respectfully, yours,
"W. J. DUANE.

"September 19, 1833."

4. In the Globe of Friday, September 20, you caused it to be announced to the world that the die was cast; thus altogether disregarding the rights of the Secretary of the Treasury, and my own feelings and fame; and refusing besides to wait even until the next day to receive my decision.

Allow me, therefore, very respectfully, but confidently, to say, that I was thus discharged from any sort of obligation or respect for or on account of the past.

You gave me no opportunity to let you know whether I would or would not afford you an opportunity to choose a successor; in short, the Secretary of the Treasury was, as far as an Executive act would do it, nullified; and I hold it, therefore, that after such a course, I may stand before my country acquitted of any disregard even of delicacy.

Trusting, sir, that you will be so good as to permit this to enter into your consideration, with my former note of this date, and that we may close, without discredit to either, the pending matter,

I am, with the utmost consideration, our obedient serv't,
W. J. DUANE.

No. 6.

The Secretary of the Treasury to the President of the United States.

Treasury Department, September 21, 1833.

Sir: As you had not, in any written communications, given a direction as to the deposites, but on the contrary, had left the action to the Secretary of the Treasury as a matter of option, I deemed it my duty, when I had the honor to receive from you your exposition of the 18th instant, to ask you whether I was to consider myself directed to remove the deposites, and you replied that I was directed on your responsibility.

I was preparing to lay before you an exposition of our relative position and views, from the first moment of my entry into your administration, when your decision was authoritatively announced in the Globe, a proceeding unsanctioned by me, that rendered all further discussion needless, and any attempt of the kind derogatory to myself.

A communication, justificatory of my course under present circumstances, which I delivered to you yesterday, having been returned, on account of alleged objectionable matter therein, the presence of which, if disrespectful, I regret, it now becomes my duty, in reply to your letter returning that communication, respectfully to announce my unwillingness to carry your direction as to the deposites into effect; and, in making known that decision, without meaning any sort of disrespect, to protect myself, by protesting against all that has been done, or is doing, to divest the Secretary of the Treasury of the power to exercise, independently of the President, the discretion committed to him by law over the deposites.

I have already, sir, on more than one occasion, and recently, without contradiction, before the Cabinet, stated that I did not know, until after my induction into office, that you had determined that the deposites should be removed without any further action of Congress; if I had known that such was your decision, and that I should be required to act, I would not have accepted office. But, as soon as I understood, when in office, what your intention was, I sought for all information calculated to enable me to act uprightly in the embarrassing position in which I was unexpectedly placed.

You were so good as to transmit to me, to that end, from Boston, not only the opinions of the members of the cabinet, but your own views in detail, upon the deposite question; but, instead of intimating to me that my disinclination to carry those views into effect would be followed by a call for my retirement, you emphatically assured me, in your letter of the 26th June, that you "did not intend to interfere with the independent exercise of the discretion committed to me by law over the subject.

Fully confiding in the encouragement thus held out, I entered into an exposition of my objections to the proposed measure. Discussion ended in an understanding that we should remain uncommitted until after an inquiry which your agent was to make should be completed, and until the discussion of the cabinet. But pending the preparation for this inquiry, I received your letter of July 22d, conveying what I understood to be an intimation that I must retire, unless I would then say that I would remove the deposites, after the inquiry and discussion, in case you should then decide to have them removed.

I would have at once considered this letter as an order to retire, and would have obeyed it, if I had not thought it my duty to hold the post intrusted to me as long as I could do so with benefit to the country, and without discredit to myself; instead, therefore, of retiring voluntarily or otherwise, I subjected my feelings to restraint, and stated, as you quote in your letter of this day, that, if I could not, after inquiry and discussion, as the responsible agent of the law, carry into effect the decision that might be made, I would afford you an opportunity to select a successor, &c.

Under these circumstances, the inquiry was entered upon: it ended in showing, as I had predicted, that the plan submitted to me on the 26th June was impracticable, and in a report without any defined substitute, according to my comprehension of it.

After a consideration of the subject in the cabinet, you gave directions, as stated at the commencement of this letter, and I wrote to you that I would make a communication to you on Saturday, 21st instant, and I accordingly did so, as hereinbefore stated.

Unto the present time, therefore, I have been struggling, under painful circumstances, not to retain a post that I never sought, and the loss of which I shall not regret on my own account, but to maintain it for the country, under a serious sense of duty to it, and to avert a measure that I honestly feared might affect yourself.

Without entertaining or desiring to manifest towards you, sir, the slightest disrespect, but solemnly impressed with a consideration of my responsibility to the country, and my duty to myself, I now definitely declare that I will not, in any way, aid or assist to cause the public money to be deposited in any other institution, bank, or place, than that provided by the 16th section of the act chartering the United States Bank, until Congress shall direct or authorize such change to be made, unless good cause shall arise, such as in my judgment does not now exist.

I am further constrained, owing to occurrences and circumstances that in part have come to my knowledge, or have taken place of late, to leave it to you, sir, to determine whether I am or am not any longer to remain a member of your administration.

I sincerely hope and beg, sir, that you will consider that I owe it to myself, my family, and my friends, not to leave my course, at this most trying moment of my life, open to doubt or conjecture; that my conduct has already sharpened the dagger of malice, as may be seen in some of the public prints; that you, who have been assailed in so many tender parts, and in whose defence I have devoted many a painful day, ought to make allowance for me in my present position; that were I to resign, I could meet no calumniator without breach of duty; that I ask such order or direction from you, in relation to my office, as may protect me and my children from reproach, and save you and myself from all present or future pain; that I desire to separate in peace and kindness; that I will strive to forget all unpleasantness, or cause of it; and that I devoutly wish that your measures may end in happiness to your country, and honor to yourself.

With the utmost consideration,

Your obedient servant,

W. J. DUANE.

No. 7.

The President of the United States to the Secretary of the Treasury.

September 23, 1833.

Sir: Since I returned your first letter of September 21st, and since the receipt of your second letter of the same day, which I sent back to you at your own request, I have received your third and fourth letters of the same date. The two last, as well as the first, contain statements that are inaccurate; and, as I have already indicated in my last note to you that a correspondence of this description is inadmissible, your two last letters are herewith returned.

But, from all your recent communications, as well as your recent conduct, your feelings and sentiments appear to be of such a character that, after your letter of July last, in which you say, should your views not accord with mine "I will from respect to you and for myself, afford you an opportunity to select a successor whose views may accord with your own on the important matter in contemplation," and your determination now to disregard the pledge you then gave, I feel myself constrained to notify you that your further services as Secretary of the Treasury are no longer required.

I am, respectfully, your obedient servant,

ANDREW JACKSON.

EXECUTIVE PROCEEDINGS OF THE SENATE

On the nomination and renomination of certain Directors of the Bank of the United States.

Tuesday, December 17, 1833.

The following message was received from the President of the United States, by Mr. Donelson, his Secretary:

Washington, December 17, 1833.

To the Senate:

I nominate James A. Bayard, of Delaware, to be a director in the Bank of the United States, on the part of the Government, for the year 1834, in the place of Saul Alley.

And I nominate Peter Wager, Henry D. Gilpin, and John T. Sullivan, of Philadelphia, and Hugh McElderry, of Baltimore, to the same offices for the year 1834.

ANDREW JACKSON.

The message was read.

Ordered, That it be referred to the Committee on Finance.

Thursday, January 19, 1834.

Mr. Webster, from the Committee on Finance, to whom was referred the message nominating James A. Bayard,

and others, as directors of the Bank of the United States, reported.

Tuesday, January 21, 1834.

The Senate proceeded to consider the message of the 17th December, nominating James A. Bayard, and others, as directors of the Bank of the United States.

On the question, "Will the Senate advise and consent to the appointment of James A. Bayard?"

It was determined in the affirmative.

The remaining nominations being under consideration,

On motion by Mr. Clay, the Senate adjourned.

Wednesday, January 22, 1834.

The Senate resumed the consideration of the message nominating James A. Bayard, and others, as directors of the Bank of the United States; and, after debate,

The Senate adjourned.

Monday, February 10, 1834.

The Senate resumed the consideration of the message nominating James A. Bayard, and others, as directors of the Bank of the United States.

Mr. Kane submitted the following motion:

Resolved, That the nominations of H. D. Gilpin, John T. Sullivan, Peter Wager, and Hugh McElderry, be recommitted to the Committee on Finance, with instructions to inquire into their several qualifications and fitness for the stations to which they have been nominated; also into the truth of all charges preferred by them against the board of directors of the Bank of the United States, and into the conduct of each of the said nominees during the time he may have acted as director of the said bank; and that the said nominees have notice of the times and places of meetings of said committee, and have leave to attend the same.

On motion by Mr. Forsyth,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

Messrs. Benton, Brown, Forsyth, Grundy, Hendricks, Hill, Kane, King of Alabama, Linn, McKean, Moore, Morris, Rives, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright.

Those who voted in the negative, are,

Messrs. Bell, Bibb, Black, Calhoun, Chambers, Clay, Clayton, Ewing, Frelinghuysen, Kent, King of Georgia, Knight, Mangum, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster.

So the resolution was disagreed to.

The question recurring on advising and consenting to the nominations,

After debate, the Senate adjourned.

Monday, February 21, 1834.

The Senate resumed the consideration of the message nominating James A. Bayard, and others, as directors of the Bank of the United States.

On motion by Mr. Mangum,

Ordered, That it lie on the table.

Thursday, February 27, 1834.

On motion by Mr. Webster,

The Senate resumed the consideration of the message nominating James A. Bayard, and others.

Mr. Morris submitted the following resolution:

Resolved, That the nominations of H. D. Gilpin, Peter Wager, John T. Sullivan, and Hugh McElderry, be again referred to the Committee on Finance, with instructions to inquire whether any objections whatever exist either against their characters or qualifications to act as directors of the Bank of the United States.

On the question to agree thereto,

It was determined in the negative, yeas 18, nays 27.

On motion by Mr. Morris,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

Messrs. Benton, Brown, Forsyth, Grundy, Hill, Kane, King of Alabama, Linn, McKean, Moore, Morris, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, and Wright.

Those who voted in the negative, are,

Messrs. Bell, Bibb, Black, Calhoun, Chambers, Clay, Clayton, Ewing, Frelinghuysen, Hendricks, Kent, Knight, Mangum, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster.

So the resolution was rejected.

On the question, "Will the Senate advise and consent to the appointment of Peter Wager?"

It was determined in the negative, yeas 20, nays 25.

On motion by Mr. Forsyth,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

Messrs. Benton, Black, Brown, Forsyth, Grundy, Hendricks, Hill, Kane, King of Alabama, Linn, McKean, Moore, Morris, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright.

Those who voted in the negative, are,

Messrs. Bell, Bibb, Calhoun, Chambers, Clay, Clayton, Ewing, Frelinghuysen, Kent, Knight, Mangum, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster.

On the question, "Will the Senate advise and consent to the appointment of Henry D. Gilpin?"

It was determined in the negative, yeas 20, nays 24.

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

Messrs. Benton, Black, Brown, Forsyth, Grundy, Hendricks, Hill, Kane, King of Alabama, Linn, McKean, Moore, Morris, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright.

Those who voted in the negative, are,

Messrs. Bell, Bibb, Calhoun, Chambers, Clay, Ewing, Frelinghuysen, Kent, Knight, Mangum, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster.

On the question, "Will the Senate advise and consent to the appointment of John T. Sullivan?"

It was determined in the negative, yeas 18, nays 27.

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

Messrs. Benton, Brown, Forsyth, Grundy, Hendricks, Hill, Kane, King of Alabama, Linn, McKean, Morris, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright.

Those who voted in the negative, are,

Messrs. Bell, Bibb, Black, Calhoun, Chambers, Clay, Clayton, Ewing, Frelinghuysen, Kent, Knight, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster.

On the question, "Will the Senate advise and consent to the appointment of Hugh McElderry?"

It was determined in the negative, yeas 20, nays 25.

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

Messrs. Benton, Black, Brown, Forsyth, Grundy, Hendricks, Hill, Kane, King of Alabama, Linn, McKean, Moore, Morris, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright.

Those who voted in the negative, are,

Messrs. Bell, Bibb, Calhoun, Chambers, Clay, Clayton, Ewing, Frelinghuysen, Kent, Knight, Mangum, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster.

So it was

Resolved, That the Senate do not advise and consent to the appointment of Peter Wager, Henry D. Gilpin, John T. Sullivan, and Hugh McElderry, as directors of the Bank of the United States.

TUESDAY, March 11, 1834.

The following message was received from the President of the United States, by Mr. Donelson, his Secretary:

WASHINGTON, March 11, 1834.

To the Senate:

I nominate Henry D. Gilpin, Peter Wager, and John T. Sullivan, of Philadelphia, and Hugh McElderry, of Baltimore, to be directors in the Bank of the United States for the year 1834.

I disclaim all pretension of right on the part of the President officially to inquire into, or call in question, the reasons of the Senate for rejecting any nomination whatsoever. As the President is not responsible to them for the reasons which induce him to make a nomination, so they are not responsible to him for the reasons which induce them to reject it. In these respects, each is independent of the other, and both responsible to their respective constituents. Nevertheless, the attitude in which certain vital interests of the country are placed by the rejection of the gentlemen now renominated require of me, frankly, to communicate my views of the consequences which must necessarily follow this act of the Senate, if it be not reconsidered.

The characters and standing of these gentlemen are well known to the community, and eminently qualified them for the offices to which I propose to appoint them. Their confirmation by the Senate at its last session to the same offices is proof that such was the opinion of them entertained by the Senate at that time; and unless something has occurred since to change it, this act may now be referred to as evidence that their talents and pursuits justified their selection.

The refusal, however, to confirm their nominations to the same offices, shows that there is something in the conduct of these gentlemen during the last year which, in the opinion of the Senate, disqualifies them; and as no charge has been made against them as men or citizens, nothing which impeaches the fair private character they possessed when the Senate gave them their sanction at its last session, and as it moreover appears from the journal of the Senate recently transmitted for my inspection, that it was deemed unnecessary to inquire into their qualifications or character, it is to be inferred that the change in the opinion of the Senate has arisen from the official conduct of these gentlemen. The only circumstances in their official conduct which have been deemed of sufficient importance to attract public attention are the two reports made by them to the Executive department of the Government, the one bearing date the 22d day of April, and the other the 19th day of August last; both of which reports were communicated to the Senate by the Secretary of the Treasury with his reasons for removing the deposites.

The truth of the facts stated in these reports, is not, I presume, questioned by any one. The high character and standing of the citizens by whom they were made prevent any doubt upon the subject. Indeed the statements have not been denied by the president of the bank, and the other directors. On the contrary, they have insisted that they were authorized to use the money of the bank in the manner stated in the two reports, and have not denied that the charges there made against the corporation are substantially true.

It must be taken, therefore, as admitted that the statements of the public directors, in the reports abovementioned, are correct: and they disclose the most alarming abuses on the part of the corporation, and the most strenuous exertions on their part to put an end to them. They prove that enormous sums were secretly lavished in a manner, and for purposes that cannot be justified; and that the whole of the immense capital of the bank has been virtually placed at the disposal of a single individual, to be used, if he thinks proper, to corrupt the press, and to control the proceedings of the Government by exercising an undue influence over elections.

The reports were made in obedience to my official directions; and I herewith transmit copies of my letter calling for information of the proceedings of the bank. Were they bound to disregard the call? Was it their duty to remain silent while abuses of the most injurious and dangerous character were daily practised? Were they bound to conceal from the constituted authorities a course of measures destructive to the best interests of the country, and intended, gradually and secretly, to subvert the foundations of our Government, and to transfer its powers from the hands of the people to a great moneyed corporation? Was it their duty to sit in silence at the board, and witness all these abuses without an attempt to correct them; or, in case of failure there, not to appeal to higher authority? The eighth fundamental rule authorizes any one of the directors, whether elected or appointed, who may have been absent when an excess of debt was created, or who may have dissented from the act, to exonerate himself from personal responsibility by giving notice of the fact to the President of the United States; thus recognising the propriety of communicating to that officer the proceedings of the board in such cases. But, independently of any argument to be derived from the principle recognised in the rule referred to, I cannot doubt for a moment that it is the right and the duty of every director at the board to attempt to correct all illegal proceedings, and in case of failure, to disclose them, and that every one of them, whether elected by the stockholders or appointed by the Government, who had knowledge of the facts, and concealed them, would be justly amenable to the severest censure.

But, in the case of the public directors, it was their peculiar and official duty to make the disclosures; and the call upon them for information could not have been disregarded without a flagrant breach of their trust. The directors appointed by the United States cannot be regarded in the light of the ordinary directors of a bank appointed by the stockholders, and charged with the care of their pecuniary interests in the corporation. They have higher and more important duties. They are public officers. They are placed at the board not merely to represent the stock held by the United States, but to observe the conduct of the corporation, and to watch over the public interests. It was foreseen that this great moneyed monopoly might be so managed as to endanger the interests of the country; and it was therefore deemed necessary, as a measure of precaution, to place at the board watchful sentinels, who should observe its conduct, and stand ready to report to the proper officers of the Government every act of the board which might affect injuriously the interests of the people.

The whole frame of the charter, as well as the manner of their appointment, proves this to be their true character. The United States are not represented at the board by these directors merely on account of the stock held by the Government. The right of the United States to appoint directors, and the number appointed, do not depend upon the amount of the stock; for, if every share should

be sold, and the United States cease to be a stockholder altogether, yet, under the charter, the right to appoint five directors would still remain. In such a case, what would be the character of the directors? They would represent no stock, and be chosen by no stockholder. Yet they would have a right to sit at the board, to vote on all questions submitted to it, and to be made acquainted with all the proceedings of the corporation. They would not, in such a case, be ordinary directors chosen by the stockholders in proportion to their stock. But they would be public officers appointed to guard the public interest; and their duties must conform to their office. They are not the duties of an ordinary director chosen by a stockholder, but they are the peculiar duties of a public officer who is bound on all occasions to protect, to the utmost of his lawful means, the public interests; and where his own authority is not sufficient to prevent injury, to inform those to whom the law has confided the necessary power. Such then is the character, and such are the duties of the directors appointed by the United States, whether the public be stockholders or not. They are officers of the United States, and not the mere representatives of a stockholder.

The mode of their appointment, and their tenure of office, confirm th s position. They are appointed like other officers of the Government, and by the same authority. They do not hold their offices irrevocably a year after their appointment: on the contrary, by the express terms of the law, they are liable to be removed from office at any time by the President, when, in his judgment, the public interest shall require it. In every aspect, therefore, in which the subject can be considered, it is evident that the five directors appointed by the United States are to be regarded as public officers, who are placed there in order to observe the conduct of the corporation, and to prevent abuses which might otherwise be committed.

Such being the character of the directors appointed on behalf of the United States, it is obviously their duty to resist, and, in case of failure, to report to the President, or to the Secretary of the Treasury, any proceedings of the board by which the public interest may be injuriously affected. The President may order a scire facias against the bank for a violation of its charter, and the Secretary of the Treasury is empowered to direct the money of the United States to be deposited elsewhere, when, in his judgment, the public interest requires it to be done. The directors of this bank, like all others, are accustomed to sit with closed doors, and do not report their proceedings to any department of the Government. The mon hly return which the charter requires to be made to the Treasury Department, gives nothing more than a general statement of its pecuniary condition, and, of that, but an imperfect one. For, although it shows the amount loaned at the bank and its different branches, it does not show the condition of its debtors, nor the circumstances under which the loans were made. It does not show whether they were, in truth, accommodations granted in the regular and ordinary course of business upon fair banking principles, or from other motives. Under the name of loans, advances may be made to persons notoriously insolvent for the most corrupt and improper purposes, and a course of proceeding may be adopted in violation of its charter, while, upon the face of its monthly statement, every thing would appear to be fair and correct.

How, then, is the Executive branch of the Government to become acquainted with the official conduct of the public directors, or the abuses practised by the corporation for its private ends, and in violation of its duty to the public? The power of displacing the public directors, and that of issuing a scire facias, and of removing the deposites, were not intended to be idle and nugatory provisions, without the means of enforcement. Yet they must be wholly inoperative and useless unless there be some means by which the official conduct of the public directors, and the abuses of power on the part of the corporation, may be brought to the knowledge of the Executive department of the Government.

Will it be said that the power is given to the Secretary of the Treasury to examine himself, or by his authorized agent, into the conduct and condition of the bank? The answer is obvious. It could not have been expected or intended that he would make an examination unless information was first given to him which excited his suspicions; and, if he did make such a general examination without previous information of misconduct, it is most probable that, in the complex concerns and accounts of a bank, it would result in nothing, whatever abuses might have been practised.

It is indeed the duty of every director to give information of such misconduct on the part of the board. But the power to issue a scire facias and to remove the deposites, presupposes that the directors elected by the stockholders might abuse their power; and it cannot be presumed that Congress intended to rely on these same directors to give information of their own misconduct. The Government is not accustomed to rely on the offending party to disclose his offence. It was intended that the power to issue a scire facias and remove the deposites should be real and effective. The necessary means of information were, therefore, provided in the charter, and five officers of the Government, appointed in the usual manner, responsible to the public and not the stockholders, were placed as sentinels at the board, and are bound by the nature and character of their office to resist, and, if unsuccessful, to report to the proper authority, every infraction of the charter and every abuse of power, in order that due measures should be taken to punish or correct it; and, in like manner, it is their duty to give, when called upon, any explanation of their own official conduct touching the management of the institution.

It was, perhaps, scarcely necessary to present to the Senate these views of the powers of the Executive, and of the duties of the five directors appointed by the United States. But the bank is believed to be now striving to obtain for itself the Government of the country, and is seeking, by new and strained constructions, to wrest from the hands of the constituted authorities the salutary control reserved by the charter. And as misrepresentation is one of its most usual weapons of attack, I have deemed it my duty to put before the Senate, in a manner not to be misunderstood, the principles on which I have acted.

Entertaining, as I do, a solemn conviction of the truth of these principles, I must adhere to them, and act upon them, with constancy and firmness.

Aware, as I now am, of the dangerous machinations of the bank, it is more than ever my duty to be vigilant in guarding the rights of the people from the impending danger. And I should feel that I ought to forfeit the confidence with which my countrymen have honored me, if I did not require regular and full reports of every thing in the proceedings of the bank calculated to affect injuriously the public interests, from the public directors; and if the directors should fail to give the information called for, it would be my imperious duty to exercise the power conferred on me by the law of removing them from office, and of appointing others who would discharge their duties with more fidelity to the public. I can never suffer any one to hold office under me who would connive at corruption, or who should fail to give the alarm when he saw the enemies of liberty endeavoring to sap the foundations of our free institutions, and to subject the free people of the United States to the dominion of a great moneyed corporation.

Any directors of the bank, therefore, who might be appointed by the Government, would be required to report to the Executive as fully as the late directors have done, and more frequently, because the danger is more imminent: and it would be my duty to require of them a full detail of every part of the proceedings of the corporation, or any of its officers, in order that I might be enabled to decide whether I should exercise the power of ordering a *scire facias*, which is reserved to the President by the charter, or adopt such other lawful measures as the interests of the country might require. It is too obvious to be doubted, that the misconduct of the corporation would never have been brought to light by the aid of a public proceeding at the board of directors.

The board, when called on by the Government directors, refused to institute an inquiry or require an account, and the mode adopted by the latter was the only one by which the object could be attained. It would be absurd to admit the right of the Government directors to give information, and at the same time deny the means of obtaining it. It would be but another mode of enabling the bank to conceal its proceedings, and practise with impunity its corruptions. In the mode of obtaining the information, therefore, and in their efforts to put an end to the abuses disclosed, as well as in reporting them, the conduct of the late directors was judicious and praiseworthy, and the honesty, firmness, and intelligence, which they have displayed, entitle them, in my opinion, to the gratitude of the country.

But if I do not mistake the principles on which the Senate have recently rejected them, the conduct which I deem worthy of praise they treat as a breach of duty; and, in their judgment, the measures which they took to obtain the information, and their efforts to put an end to the practices disclosed, and the reports they have made to the Executive, although true in all their parts, are regarded as an offence, and supposed to require some decisive mark of strong disapprobation.

If the views of the Senate be such as I have supposed, the difficulty of sending to the Senate any other names than those of the late directors will be at once apparent. I cannot consent to place before the Senate the name of any one who is not prepared, with firmness and honesty, to discharge the duties of a public director in the manner they were fulfilled by those whom the Senate have refused to confirm. If, for performing a duty lawfully required of them by the Executive, they are to be punished by the subsequent rejection of the Senate, it would not only be useless but cruel to place men of character and honor in that situation, if even such men could be found to accept it. If they failed to give the required information, or to take proper measures to obtain it, they would be removed by the Executive. If they gave the information, and took proper measures to obtain it, they would, upon the next nomination, be rejected by the Senate. It would be unjust in me to place any other citizens in the predicament in which this unlooked-for decision of the Senate has placed the estimable and honorable men who were directors during the last year.

If I am not in error in relation to the principles upon which these gentlemen have been rejected, the necessary consequence will be that the bank will hereafter be without Government directors, and the people of the United States must be deprived of their chief means of protection against its abuses; for, whatever conflicting opinions may exist as to the right of the directors appointed in January, 1833, to hold over until new appointments shall be made, it is very obvious that, whilst their rejection by the Senate remains in force, they cannot, with propriety, attempt to exercise such a power. In the present state of things, therefore, the corporation will be enabled effectually to accomplish the object it has been so long endeavoring to attain. Its exchange committees, and its delegated powers to its president, may hereafter be dispensed with, without incurring the danger of exposing its proceeding to the public view. The sentinels which the law had placed at its board can no longer appear there.

Justice to myself, and to the faithful officers by whom the public has been so well and so honorably served without compensation or reward, during the last year, has required of me this full and frank exposition of my motives for nominating them again after their rejection by the Senate. I repeat, that I do not question the right of the Senate to confirm or reject at their pleasure; and if there had been any reason to suppose that the rejection, in this case, had not been produced by the causes to which I have attributed it, or if my views of their duties, and the present importance of their rigid performance, were other than they are, I should have cheerfully acquiesced, and attempted to find others who would accept the unenviable trust. But I cannot consent to appoint directors of the bank to be the subservient instruments, or silent spectators, of its abuses and corruptions, nor can I ask honorable men to undertake the thankless duty, with the certain prospect of being rebuked by the Senate for its faithful performance in pursuance of the lawful directions of the Executive.

I repeat, that I do not claim a right to inquire into, or officially to censure, the acts of the Senate. But the situation in which the important interests of the American people vested in the Bank of the United States, and affected by its arrangement, must necessarily be left by the rejection of the gentlemen now renominated, has made it my duty to give this explanation to the Senate, and submit the matter to their reconsideration. If it shall be determined by the Senate that all channels of information in relation to the corrupt proceedings of this dangerous corporation shall be cut off, and the Government and country left exposed to its unrestrained machinations against the purity of the press and public liberty, I shall, after having made this effort to avert so great an evil, rest for the justification of my official course, with respectful confidence, on the judgment of the American people.

In conclusion, it is proper I should inform the Senate that there is now no Government director appointed for the present year, Mr. Bayard, who was nominated and confirmed by the Senate, having refused to accept that appointment.

ANDREW JACKSON.

WASHINGTON, April 14, 1833.

GENTLEMEN: Your letter of the 8th instant has been received. In reply I have to remark that the information now requested is for my own satisfaction, and I do not wish it extended beyond the personal knowledge of the Government directors. In case of a gross violation of the charter, it is my duty to issue a scire facias against the bank. If the rumors I have heard be true, it will probably be incumbent on me to do so, and those rumors relate to proceedings which must have come within the personal knowledge or observation of some of you. If they shall be confirmed by your report, I shall not only be able to judge of my particular duty, but may, if thought proper, cause to be made through the Secretary of the Treasury that more formal and thorough investigation which you suggest.

In conclusion, I would remark that the discounts granted to individuals are not deemed to constitute those private accounts which, by the charter, are so carefully guarded; but that provision only embraces the debtor and creditor accounts of individuals on the books of the bank. If any discounts be corruptly or improperly granted, it is not only deemed right, but, in aggravated cases, the duty of the Government directors to communicate the fact to the Government. I am, gentlemen, yours, &c.

ANDREW JACKSON.

To Messrs. SULLIVAN, GILPIN, and WAGER,
United States Bank Directors.

Rip Raps, *August* 3, 1833.

Gentlemen: I am informed that there is a book of expenses kept at the bank which comes before the dividend committee semi-annually. If any of you have had, or can have, access to that book, I should be glad to learn what were the expenses of the last year, and also the preceding year, and for what particulars incurred. All directors have a right to see and inspect this book; and if it is refused to the Government directors, report the same to me.

Mr. Walsh admitted, in his paper, that his publisher had received about $1,000 for printing newspapers calculated to operate on the elections. This leads me to believe that a considerable sum of the expenses of the bank has been incurred in this way. As it is my duty to see that the funds of the Government, intrusted to this institution, are not misapplied, and as it is your duty, as the representatives of the Government in the board of directors, to furnish the Executive branch of the Government with such information as will enable it to act understandingly in protecting and guarding its interests, I desire that you will obtain and furnish me a statement of the bank account of expenses. They can in no sense be considered *private* accounts. They are the accounts of a public institution's expenditures, upon the honest and proper appropriation of which must depend, to some extent, the confidence which the administrators of Government may feel at liberty to repose in it. I should consider it proper, and *even your duty*, if an examination of these accounts should be denied by the officer keeping them, to demand a view of them by a motion at the board of directors. If it be refused, then report the same forthwith to me; and, at the same time, give me all the information and knowledge in regard to these accounts which you may have acquired in the discharge of your duty as directors.

I am, gentlemen, with great respect,
Your most obedient servant,
ANDREW JACKSON.

Messrs. Sullivan, Gilpin, and Wager,
United States Bank Directors.

The message and the documents therein referred to were read.

A motion was made by Mr. Preston that the same be printed, in confidence, for the use of the Senate: whereupon,

On motion by Mr. Poindexter,

The Senate adjourned.

Saturday, March 22, 1834.

The Senate resumed the consideration of the message of the 11th instant, renominating Henry D. Gilpin, and others, as bank directors.

Mr. Preston withdrew his motion made the 11th instant for the printing thereof.

On motion by Mr. Webster,

Ordered, That the message be referred to the Committee on Finance.

Thursday, May 1, 1834.

Mr. Tyler, from the Committee on Finance, to whom was referred the message of the President of the United States of the 11th of March, renominating Henry D. Gilpin, Peter Wager, John T. Sullivan, and Hugh McElderry, as directors of the Bank of the United States, submitted the following report:

The committee have bestowed upon the subject the reflection which respect for the Chief Magistrate would at all times command. The President, at an early day of the session, submitted his nomination to the Senate of five persons as directors of the Bank of the United States. To one of these nominations the Senate assented, and the person nominated was appointed. In regard to the four others, being the same persons now renominated to the Senate, no definitive decision was made until the 27th day of February, when they were each separately rejected by ayes and noes. The subjects, in the mean time, with which these nominations were in some degree connected, had undergone a full and elaborate discussion in the Senate. The decision, therefore, was well calculated to satisfy the President that the Senate entertained decisive objections to the confirmation of these four persons; and the Journal, of which the President usually sees a copy, could not fail to show that each and every one of them was rejected by a clear majority of the whole Senate. The precise character of the objections taken by each and every member of this majority, or even the general character of such *objections*, it would be presumptuous in the committee to attempt to ascertain. They cannot be expected to go into private conference with members, and to interrogate either those of the majority or minority, upon this or any other question, as to the reasons of their votes. It must be obvious that, from the constitution of the Senate, from the manner of its proceedings, from the absolute right of every member to vote for or against particular nominations, for reasons of his own, whether others concur with him in those reasons or not, the grounds of the votes of individual members can never be set forth, nor authentically known. The committee cannot undertake any inquiry into such grounds of individual opinion, nor do they know any form in which the Senate itself, if it were so inclined, could compel individuals to state the reasons of their votes. The committee, therefore, do not suppose it proper for the Senate, by any proceeding to be adopted on its part, to undertake to set forth the reasons of members for rejecting these persons. It is enough that the Senate, in the exercise of an unquestionable constitutional right, has refused its advice and consent to the nominations. This has been officially certified to the President, and the committee think there is no ground for further inquiry.

The President disclaims, indeed, in terms, all right to inquire into the reasons of the Senate for rejecting any nomination: and yet the message immediately undertakes to infer, from facts and circumstances, what those reasons, which influenced the Senate in this case, *must have* been, and goes on to argue, much at large, against the validity of such supposed reasons. The committee are of opinion that if, as the President admits, he cannot inquire into the reasons of the Senate for refusing its assent to nominations, it is still more clear that these reasons cannot, with propriety, be assumed, and made subjects of comment.

In cases in which nominations are rejected for reasons affecting the character of the persons nominated, the committee think that no inference is to be drawn except what the vote shows; that is to say: that the Senate withholds its advice and consent from the nominations. And the Senate, not being bound to give reasons for its votes in these cases, it is not bound, nor would it be proper for it, as the committee think, to give any answer to remarks founded on the presumption of what such reasons must have been in the present case. They feel themselves, therefore, compelled to forego any response whatever to the message of the President in this particular, as well by the reasons before assigned, as out of respect to that high officer.

The President acts upon his own views of public policy in making nominations to the Senate; and the Senate does no more when it confirms or rejects such nominations.

For either of these co-ordinate departments to enter into the consideration of the motives of the other would not, and could not fail, in the end, to break up all harmonious intercourse between them. This your committee would deplore as highly injurious to the best interests of the country. The President, doubtless, asks himself, in the case of every nomination for office, whether the per-

son be fit for the office; whether he be actuated by correct views and motives; and whether he be likely to be influenced by those considerations which should alone govern him in the discharge of his duties—is he honest, capable, and faithful? Being satisfied in these particulars, the President submits his name to the Senate, where the same inquiries arise, and its decision should be presumed to be dictated by the same high considerations as those which govern the President in originating the nomination.

For these reasons, the committee have altogether refrained from entering into any discussion of the legal duties and obligations of directors of the bank, appointed by the President and Senate, which form the main topic of the message.

The committee would not feel that it had fully acquitted itself of its obligations, if it did not avail itself of this occasion to call the attention of the Senate to the general subject of renomination.

The committee do not deny that a right of renomination exists; but they are of opinion that, in very clear and strong cases only should the Senate reverse decisions which it has deliberately formed, and officially communicated to the President. In military and naval appointments it is possible that questions, not of personal fitness for office, but of the right of individuals to rank and grade, may arise between the President and Senate, and that nominations may be rejected pending such questions which might properly be renewed under other laws, or a new state of circumstances. And in regard too to diplomatic appointments, the question may perhaps sometimes turn, not on the fitness of the person nominated, but on the propriety of any appointment, or of any such mission as is proposed. If new information should be given, shedding new light satisfactory to the Senate, in such case it may be a proper reason for agreeing to nominations once rejected. Nor will the committee say that there may not be other cases in which a person once rejected may be properly again presented to the Senate. But the committee think that in a case in which the decision of the Senate has been deliberately made upon the sole question of the fitness of the persons for the offices to which they are nominated, and its assent has been withheld, it ought not, without very strong and clear reasons, to change that decision upon a renomination. The committee has caused the Journals of the Senate to be examined, in reference to the practice of renomination; and they find that, during the Presidential terms of General Washington, Mr. J. Adams, and Mr. Jefferson, no instance of renomination to office once occurred; and yet there are not wanting instances of the rejection of nominations made by those illustrious citizens, the motives for which it would be difficult now to ascertain. To illustrate this it is only necessary to select the case of Colonel Fishburn, a gallant soldier of the Revolution, who was nominated by General Washington as the collector of Savannah, and was rejected by the Senate. And although the President was obviously mortified by the decision, the nomination having been made, in a great measure, upon his personal knowledge of the individual, he contented himself, after the rejection, with addressing a letter to the Senate, containing his reasons for the nomination of Colonel Fishburn, and accompanied that message with the name of another individual. During the administration of Mr. Madison, two instances occur of renominations of the same persons to the same offices for which they had originally been nominated. Abraham Quackenbush was nominated as an ensign, and rejected; renominated and confirmed. And George Brown was nominated a collector of the first collection district of Maryland, and, after a rejection, was renominated and confirmed. What reasons influenced the President to pursue this course in the two instances referred to, or the Senate to concur in it, the committee have now no means of ascertaining. During the administration of Mr. Monroe the instances of renomination became more frequent; but several of them were nominations to military appointments; and, in a majority of the cases, no direct vote rejecting the nomination had passed the Senate. The cases of renomination by Mr. Monroe after a rejection, were James Gadsden as adjutant general, and Nathan Towson as colonel, Charles Van de Venter as navy agent, and Duff Green as receiver, all of which were rejected on their renomination. The two first nominations were purely military, and involved an interesting and difficult question of grade; and, in the opinion of the President, called for the most minute and elaborate investigation. What motives impelled to the renomination of the two last, the committee cannot undertake to say. During the four years of Mr. J. Q. Adams's administration, no instance of renomination appears to have occurred, unless the nomination of Amos Binney, whose nomination, previously made by Mr. Monroe, had been postponed; and that of Peter Sailly, whose nomination by Mr. Monroe had been laid upon the table at the last day of the session, and who, at the commencement of the succeeding Executive session, was again presented to the Senate, are to be considered as renominations. Since the 3d of March, 1829, four instances of renomination, after rejection by the Senate, have occurred. In two of these instances, the persons renominated were again rejected, in the third the nomination was agreed to, and the fourth is the case now before the Senate.

The committee perceive, with regret, an intimation in the message that the President may not see fit to send to the Senate the names of any other persons to be directors of the bank, except those whose nominations have been already rejected. While the Senate will exercise its own rights according to its own views of its duty, it will leave to other officers of the Government to decide for themselves on the manner they will perform their duties. The committee know no reason why these offices should not be filled; or why, in this case, no further nomination should be made after the Senate has exercised its unquestionable right of rejecting particular persons who have been nominated, any more than in other cases. The Senate will be ready at all times to receive and consider any such nominations as the President may present to it. It claims no authority to control him in his nominations; but it cannot surrender the exercise of its own right of deciding for itself on the propriety of advising and consenting to appointments to office. It cannot deprive itself of its own powers; it cannot surrender its own constitutional character; it cannot, through apprehension of any consequences whatever, forbear from exercising its high duty of giving, or of refusing, its advice and consent to nominations of the President, in all cases, according to its conscientious sense of its own obligations to the constitution and to the country. If these offices of bank directors remain unfilled, the fault will not be the fault of the Senate. The case is like other cases of rejection. In other cases, other persons have been nominated in place of those rejected by the Senate, and confirmed; and if a different course shall be adopted on this occasion, it is a course for which the Senate cannot be responsible.

Their power of withholding their assent from the President's nominations is not altogether vain and nugatory. It was given them by the constitution to be exercised in proper cases, and in their own discretion. When exercised by them, the rights of no other branch of the Government are infringed or impaired. The Senate has only done its own duty, and, having done this honestly and conscientiously, it cannot fear any consequences.

The committee recommend that the Senate do not advise and consent to the appointment of the persons thus renominated. The report was read.

The Senate proceeded to consider the message renominating Henry D. Gilpin, and others, as bank directors.

On the question, "Will the Senate advise and consent to the appointment of Henry D. Gilpin, Peter Wager, John T. Sullivan, and Hugh McElderry?"

It was determined in the negative, yeas 11, nays 30.

On motion by Mr. Clay,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

Messrs. Brown, Forsyth, Grundy, Hendricks, Hill, King of Alabama, Linn, Robinson, Shepley, White, Wright.

Those who voted in the negative, are,

Messrs. Bell, Bibb, Black, Calhoun, Chambers, Clay, Clayton, Ewing, Frelinghuysen, Kent, King of Georgia, Leigh, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Sprague, Swift, Tipton, Tomlinson, Tyler, Waggaman, Webster.

So it was

Resolved, That the Senate do not advise and consent to the appointment of Henry D. Gilpin, Peter Wager, John T. Sullivan, of Philadelphia, and Hugh McElderry, of Baltimore, as directors of the Bank of the United States.

Mr. Forsyth submitted the following resolution:

Resolved, That the injunction of secrecy be removed from all the proceedings of the Senate in relation to the nomination and renomination of the directors of the Bank of the United States.

On motion, by Mr. Wright, to amend the same, by inserting after the word "Senate," the words, *and the debates*.

It was determined in the negative, yeas 8, nays 31.

On motion by Mr. Wright,

The yeas and nays being desired by one-fifth of the Senators present,

Those who voted in the affirmative, are,

Messrs. Brown, Forsyth, Hill, Linn, Robinson, Shepley, Tipton, Wright.

Those who voted in the negative, are,

Messrs. Bibb, Black, Calhoun, Chambers, Clay, Clayton, Ewing, Frelinghuysen, Grundy, Hendricks, Kent, King of Alabama, Leigh, Mangum, Moore, Naudain, Poindexter, Porter, Preston, Robbins, Silsbee, Smith, Southard, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster, White, Wilkins.

So the motion *to amend* was rejected.

The resolution was then agreed to.

Friday, May 2, 1834.

On motion by Mr. Webster,

Resolved, That the Secretary of the Senate be authorized to give extracts from the Executive Journal of the proceedings of the Senate in relation to the nomination and renomination of the directors of the Bank of the United States for the year 1834.

On motion by Mr. Preston,

Resolved, That two thousand copies of the President's message of March 11, 1834, nominating certain bank directors, and the report of the committee thereon, together with the proceedings of the Senate on the first and second nomination of said bank directors, be printed.

ACTS OF A PUBLIC NATURE

PASSED AT THE FIRST SESSION OF THE TWENTY-THIRD CONGRESS.

AN ACT making appropriations for the naval service for the year one thousand eight hundred and thirty-four.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be appropriated for the naval service for the year one thousand eight hundred and thirty-four, in addition to the unexpended balances of former appropriations for similar objects, viz.

For pay and subsistence of the officers of the navy, and pay of seamen, one million four hundred and eighty-seven thousand two hundred and forty-four dollars and twenty-one cents.

For pay of superintendents, naval constructors, and all the civil establishments at the several yards, sixty-one thousand one hundred and eighty dollars.

For provisions, four hundred and fifty thousand dollars.

For the repairs of vessels in ordinary, and the repairs and wear and tear of vessels in commission, five hundred and ninety thousand dollars.

For medicines and surgical instruments, hospital stores, and other expenses on account of the sick, forty thousand dollars.

For the improvement and necessary repairs of the navy yard at Portsmouth, New Hampshire, forty thousand seven hundred dollars.

For the improvement and necessary repairs of the navy yard at Charlestown, Massachusetts, eighty-six thousand three hundred dollars.

For the improvement and necessary repairs of the navy yard at Brooklyn, New York, fifty-seven thousand five hundred dollars.

For the improvement and necessary repairs of the navy yard at Philadelphia, six thousand five hundred and fifty dollars.

For the improvement and necessary repairs of the navy yard at Washington, twenty-nine thousand five hundred dollars.

For the improvement and necessary repairs of the navy yard at Gosport, Virginia, one hundred and eight thousand two hundred and fifty dollars.

For the improvement and necessary repairs of the navy yard at Pensacola, twenty-six thousand dollars.

For ordnance and ordnance stores, ten thousand dollars.

For defraying the expenses that may accrue for the following purposes, viz.

For freight and transportation of materials and stores of every description; for wharfage and dockage, storage and rent, travelling expenses of officers and transportation of seamen, house rent, chamber money, and fuel and candles, to officers other than those attached to navy yards and stations, and for officers in sick quarters where there is no hospital, and for funeral expenses; for commissions, clerk hire and office rent, stationary and fuel, to navy agents; for premiums and incidental expenses of recruiting, for apprehending deserters; for compensation to judge advocates; for per diem allowances to persons attending courts martial and courts of inquiry, and to officers engaged in extra service beyond the limits of their stations; for printing and stationary of every description, and for books, maps, charts and mathematical and nautical instruments, chronometers, models and drawings; for purchase and repair of fire and steam engines, and for machinery; for purchase and maintenance of oxen and horses, and for carts, timber wheels, and workmen's tools of every description; for postage of letters on public service; for pilotage and towing ships of war; for cabin furniture of vessels in commission, and for furniture of officers' houses at navy yards; for taxes on navy yards and public property; for assistance rendered to vessels in distress; for incidental labor at navy yards, not applicable to any other appropriation; for coal and other fuel for forges, foundries, and steam engines; for candles, oil, and fuel for vessels in commission and in ordinary; for repairs of magazines and powder houses; for preparing moulds for ships to be built, and for no other purpose whatsoever, two hundred and ninety-five thousand dollars.

For contingent expenses for objects not hereinbefore enumerated, four thousand dollars.

For pay of the officers, non-commissioned officers, musicians and privates, and for subsistence of the officers of the marine corps, including arrearages and increased pay under the act, second of March, one thousand eight hundred and thirty-three, one hundred and thirty-five thousand eight hundred and eighty dollars and twenty-five cents.

For subsistence of non-commissioned officers, musicians and privates, and washerwomen of said corps serving on shore, nineteen thousand two hundred and thirty-one dollars and eighty cents.

For clothing, twenty-nine thousand three hundred and fifteen dollars.

For fuel, nine thousand and ninety-eight dollars.

For contingent expenses, including arrearages, nineteen thousand dollars.

For transportation and recruiting, five thousand dollars.

For medicines, hospital stores, and surgical instruments for officers and men serving on shore, two thousand three hundred and sixty-nine dollars and seventy-one cents.

For balance due Lieutenant Colonel Anderson, nine hundred and fifty-four dollars and twenty-two cents.

For the erection of barracks for the marines stationed at the navy yard, Brooklyn, New York, thirty thousand dollars.

For carrying into effect the acts for the suppression of the slave trade, including the support in the United States, and for a term not exceeding six months after their arrival in Africa, of all persons removed from the United States under the said acts, five thousand dollars.

That so much of the sums appropriated by the act of the twenty-eighth May, eighteen hundred and thirty, for the relief of Alexander Claxton, as still remains due and unpaid, and which has been carried to the credit of the surplus fund, shall be and the same is hereby reappropriated.

Approved, January 24, 1834.

AN ACT making appropriations, in part, for the support of Government for the year one thousand eight hundred and thirty-four.

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, to be paid out of any unappropriated money in the Treasury, viz:

For pay and mileage of the members of Congress, and delegates, five hundred and fifty-five thousand four hundred and eighty dollars.

For pay of the officers and clerks of the Senate and

House of Representatives, thirty-two thousand nine hundred dollars.

For stationary, fuel, printing, and all other incidental and contingent expenses of the Senate, thirty-two thousand five hundred and fifty dollars.

For stationary, fuel, printing, and all other contingent and incidental expenses of the House of Representatives, one hundred and fifty thousand dollars.

The said two sums last mentioned, to be applied to the payment of the ordinary expenditures of the Senate and House of Representatives, severally, and to no other purpose.

Approved, February 11, 1834.

AN ACT further to continue in force "An act to authorize the extension, construction, and use of a lateral branch of the Baltimore and Ohio railroad into and within the District of Columbia."

Be it enacted, &c., That the period limited and allowed to the Baltimore and Ohio Railroad Company, within which they are required by the fifth section of the act entitled "An act to authorize the extension, construction, and use of a lateral branch of the Baltimore and Ohio railroad into and within the District of Columbia," approved second March, one thousand eight hundred and thirty-one, to commence the road, and complete one set of tracks, be, and the same is hereby extended, and the the said act shall remain in force, and all the rights and privileges thereby granted shall be vested in said company: *Provided*, They shall commence the said lateral road within one year, and complete the same, with one set of tracks, within four years from the passage of this act.

Approved, February 26, 1834.

AN ACT to authorize Gazaway B. Lamar to import an iron steamboat, in detached parts, with the necessary machinery, tools, and working utensils therefor, into the United States, free from duty, and to provide for the remission of the same.

Be it enacted, &c., That, for the purpose of making an experiment of the aptitude of iron steamboats for the navigation of shoal waters, Gazaway B. Lamar, of the city of Savannah, in the State of Georgia, be, and he is hereby, authorized to import an iron steamboat, in detached parts, with the necessary machinery, tools, and working utensils, for the same, into the United States, free from duty.

Sec. 2. *And be it further enacted*, That the collector of the port of Savannah be, and he is hereby, authorized and required to admit to entry, free of duty, the articles mentioned in the first section of this act, on the exhibition of the invoices and the oath of the said Gazaway B. Lamar, that the said articles are intended for the purposes herein before specified; or to cancel any bond or bonds which may be, or may have been, given by the said Gazaway B. Lamar, for the duties accruing thereon under the existing laws.

Approved, February 26, 1834.

AN ACT making appropriations for the revolutionary and other pensioners of the United States, for the year one thousand eight hundred and thirty-four.

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the pensioners of the United States, for the year one thousand eight hundred and thirty-four:

For the revolutionary pensioners under the several acts prior to that of the seventh of June, one thousand eight hundred and thirty-two, in addition to an unexpended balance of one hundred and forty-four thousand six hundred and twenty-three dollars and twenty-one cents, the sum of nine hundred and one thousand six hundred and fifty-six dollars.

For the invalid pensioners under the various laws, in addition to the unexpended balance of one thousand eight hundred and forty-nine dollars and seventy cents, the sum of three hundred and six thousand one hundred and twenty-five dollars.

For pensions to widows and orphans, seven thousand five hundred dollars.

Approved, February 27, 1834.

AN ACT to change the times for commencing the sessions of the court of the United States in the district of Delaware.

Be it enacted, &c, That the sessions of the circuit court and district court of the United States in the district of Delaware, shall commence at the times hereinafter mentioned, instead of the times now appointed by law; that is to say: the sessions of the said circuit court shall commence at Newcastle, on the Tuesday next following the fourth Monday of May, and at Dover on the Tuesday next following the third Monday of October annually; and the sessions of the said district court shall commence at Newcastle on the third Tuesday of June, and second Tuesday of December; and at Dover on the Tuesday next following the third Monday of March, and the Tuesday next following the fourth Monday of September annually; and that no process, recognizance, or bail bond returnable to the next term of either of said courts shall be avoided, or impaired, or affected by this change as to the commencement of said term; but that all process, bail bonds, and recognizances, returnable to the next term of either of said courts, shall be returnable and returned to the said court next held, according to this act, in the same manner as if so made returnable on the face thereof, and shall have full effect accordingly, and that all continuances in either of said courts shall be from the last term to the day appointed by this act for the commencement of the next session thereof.

Approved, March 24, 1834.

AN ACT making appropriations for the support of the army for the year one thousand eight hundred and thirty-four.

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the support of the army for the year one thousand eight hundred and thirty-four, that is to say:

For pay of the army and subsistence of officers, one million three hundred and eighty-one thousand seven hundred and seventy-two dollars, including the sum of ninety-four thousand seven hundred and eighty-six dollars, arrearages of pay and subsistence for the year one thousand eight hundred and thirty-three.

For forage of officers, fifty-nine thousand one hundred and seventy-nine dollars.

For clothing for servants of officers, twenty-four thousand four hundred and fifty dollars.

For subsistence exclusive of that of officers, in addition to an unexpended balance of fifty-five thousand dollars, the sum of three hundred and sixty-one thousand nine hundred dollars.

For clothing of the army, camp, and garrison equipage, cooking utensils, and hospital furniture, two hundred and eighty thousand seven hundred and forty eight dollars.

For payments in lieu of clothing for discharged soldiers for the year eighteen hundred and thirty-four, including an arrearage in eighteen hundred and thirty-three estimated for by the pay department, forty-five thousand dollars.

For the medical and hospital department, thirty-six thousand five hundred dollars.

For various expenses in the quartermaster's department viz: fuel, forage, straw, stationary, blanks, and printing; repairing and enlarging barracks, quarters, store-houses, and hospitals at the various posts in the Union; erecting temporary cantonments at such posts as shall be occupied during the year, including huts for the dragoons; materials for the authorized furniture of the rooms of non-commissioned officers and soldiers, rent of quarters, barracks, and store-houses; postage on public letters; expenses of courts martial and courts of inquiry, including the compensation of judge advocates, members, and witnesses; extra pay to soldiers employed in the erection of barracks and quarters and the construction of roads and other constant labor, under an act of Congress of the 2d March, eighteen hundred and nineteen; expenses of expresses from the frontier posts, of escorts to paymasters, hire of laborers, and the interment of deceased non-commissioned officers and soldiers; compensation to extra clerks in the office of the Quartermaster General, and in the offices of the quartermasters and assistants at the several posts, and compensation to temporary agents; also, for the horses and equipments which may be required to keep the establishment of the regiment of dragoons complete, three hundred and forty-four thousand dollars.

For transportation of clothing from the depot at Philadelphia to the stations of the troops; of subsistence from the places of purchase and the points of delivery under contract, to the posts where they are required to be used; of ordnance from the foundries and arsenals to the fortifications and frontier posts, and lead from the western mines to the several arsenals; for transportation of the army, including officers when removing with troops either by land or water; freights and ferriages; the purchase or hire of horses, oxen, mules, carts, wagons, and boats, for transportation of troops and supplies, and for garrison purposes; drayage and cartage at the several posts, hire of teamsters, transportation of funds for the pay department, and the expenses of sailing a public transport between the several posts on the Gulf of Mexico, one hundred and forty-five thousand dollars.

For the allowance to officers for the transportation of their baggage when travelling on duty without troops, and for the per diem to officers on topographical duty, fifty-three thousand dollars.

For contingencies of the army, ten thousand dollars.

For carrying on the works in the city of Savannah, Georgia, twenty-five thousand dollars.

For continuing the repairs and alterations of the barracks and quarters at Baton Rouge, Louisiana, ten thousand dollars.

For erecting officers' quarters at Fort Severn, Annapolis, Maryland, five thousand dollars.

For carrying on the works at Green Bay, Michigan, ten thousand dollars.

For temporary repairs of the barracks at Fort Gibson, Arkansas, five thousand dollars.

For the purchase of land adjoining Fort Sullivan, Eastport, Maine, three thousand three hundred dollars.

For national armories, three hundred and sixty thousand dollars.

For the armament of fortifications, one hundred thousand dollars.

For the current expenses of the ordnance service, sixty-eight thousand four hundred dollars.

For arsenals, one hundred and fifty thousand dollars.

For the arsenal at St. Louis, in addition to the sum embraced in the general appropriation for arsenals, eight thousand five hundred dollars.

For the purchase of five thousand sets of accoutrements for the artillery and infantry regiments, fourteen thousand two hundred and fifty dollars.

For the recruiting service, in addition to twenty-nine thousand three hundred and eighty-eight dollars unexpended of a former appropriation, six thousand dollars.

For contingent expenses of the recruiting service, in addition to six thousand and forty-three dollars, unexpended of a former appropriation, fourteen thousand dollars.

For arrearages prior to the first of July, eighteen hundred and fifteen, pryable through the office of the Third Auditor, in addition to an unexpended balance in the Treasury, three thousand dollars.

To enable the Second Auditor to close the accounts under the act of third March, eighteen hundred and twenty-one, allowing three months' gratuitous pay to disbanded officers and soldiers, one thousand dollars.

For the payment of the general and staff officers and six companies of Missouri militia, ordered into service by the Governor of that State, in the year eighteen hundred and thirty-two, thirty-five thousand dollars.

For paying any balance which may be due for militia services, in the Territory of Michigan, in the late war against Black Hawk and his followers, two thousand dollars.

For the payment of Captain McGeorge's company of Indiana militia for services performed in the year eighteen hundred and thirty-two: *Provided*, The Secretary of War shall be satisfied that the said company is entitled thereto, the sum of seven hundred dollars.

For finishing gun racks and making window shutters to the new arsenal, rebuilding middle water shop, one hundred and ten by fifty feet, and for building a house for steam engine, including a store room for iron, fifty-two by forty-six feet, at the national armory, Springfield, Massachusetts, twelve thousand two hundred dollars.

For additional machinery and fixtures at the same armory, viz: three water wheels for grinding musket barrels, six water wheels and twenty-two forges required in the middle water shop, blast machinery for eleven double forges, and for the purchase of new and improved labor-saving machinery, seventeen thousand eight hundred dollars.

For slating roof and rebuilding water wheel of upper workshop, renewing and repairing fences on the public ground, and for painting public buildings at the same armory, three thousand five hundred dollars.

For repairing dam, (and removing obstructions in way of,) supplying the water to the rifle factory on the Shenandoah river, at the national armory, Harper's Ferry, Virginia, two thousand dollars.

For the completion of the machinery in the three shops for turning, boring, and stocking muskets; the completion of the canal, furnishing the water power; erecting an annealing shop and proof house; erecting two shops for tempering springs and polishing barrels; erecting two engine houses, and making addition to stocking shops; and for erecting a carpenter's and machine shop, at the same armory, thirty-six thousand one hundred and fourteen dollars and eighty-six cents.

For erecting storehouses for iron and pit coal; repairing paymasters' and clerks' quarters; constructing a river wall, sinking three wells on Camp hill, grading and paving the open spaces between the public shops, and for painting some of the public buildings at the same armory, eight thousand five hundred and eighty-nine dollars and eighty-seven cents.

For the payment of the taxes assessed by the State of Pennsylvania on the United States arsenal on the Schuylkill river, five hundred and sixty-eight dollars and fifty-nine cents.

For the purchase of three acres of land on the Alabama river, and building a warehouse and dock at the Mount Vernon arsenal, in the State of Alabama, one thousand eight hundred dollars and fifty cents.

Approved, May 14, 1834.

AN ACT to revive and amend "An act for the relief of certain insolvent debtors of the United States," passed on the second day of March, eighteen hundred and thirty-one, and an act in addition thereto, passed on the fourteenth of July, eighteen hundred and thirty-two.

Be it enacted &c., That an act entitled "An act for the relief of certain insolvent debtors of the United States," passed on the second day of March, eighteen hundred and thirty-one, and an act in addition thereto, passed on the fourteenth day of July, eighteen hundred and thirty-two, which said acts expired on the second day of March, eighteen hundred and thirty-four, be, and the same are hereby, revived, and shall continue in force for three years from and after the passage of this act.

Sec. 2. *And be it further enacted*, That if any surety, or co-surety, of any debtor who is, or shall become, an applicant for relief under the provisions of the acts recited in the preceding section of this act, shall be dead, the consent of the legal representative or representatives of such deceased surety, or co-surety, shall be received, and entitle the applicant to relief, in like manner as the consent of a living surety, or co-surety, would do by the provisions of the third section of the act of the fourteenth of July, eighteen hundred and thirty-two; and if the surety, or co-surety, of any such debtor shall be absent in parts unknown, or if the consent of the legal representative or representatives of any deceased surety, or co-surety, cannot be obtained, and the property or estate of any such deceased or absent surety, or co-surety, shall not be sufficient to pay the debt due to the United States, and the Secretary of the Treasury shall be satisfied by proof of these facts, he shall be authorized, in all such cases, to grant such relief or discharge as the debtor applying for the same may be entitled to, according to the provisions of the acts which this act is intended to revive and amend, upon the condition that such debtor shall not be discharged thereby from his or her legal liability to such absent surety, or co-surety, or to the estate of such deceased debtor, for any part of the debt due to the United States, which may thereafter be paid by or out of the estate of any such absent or deceased surety, or co-surety.

Sec. 3. *And be it further enacted*, That all discharges which have heretofore been granted by the Secretary of the Treasury to any principal debtor, with the consent of the legal representative or representatives of any deceased surety, or co-surety, shall be as valid as though such surety or co-surety had been alive, and his or her consent obtained, according to the letter of the third section of the act of the fourteenth of July, eighteen hundred and thirty-two.

Sec. 4. *And be it further enacted*, That the Secretary of the Treasury shall be authorized to cause satisfaction to be entered upon all judgments against such insolvents as have heretofore been, or may hereafter be, relieved under the provisions of the acts which this act is intended to revive and amend; or under any other and former act of Congress for the relief of persons imprisoned for debts due to the United States: *Provided*, The district judge of the district in which such judgments are on record, shall certify that he is satisfied that the debtor is possessed or entitled to no property liable to be applied to the satisfaction of said judgments, and that the interest of the Government does not require that such judgments should remain unsatisfied. In every case of application for such certificate to a judge at his chambers, ten days' notice shall be given to the district attorney for the district, when the application is made.

Approved, June 7, 1834.

AN ACT to equalize representation in the Territory of Florida, and for other purposes.

Be it enacted, &c., That the counties of Escambia, Jackson, Gadsden, Leon, Jefferson, and St. John's, in the Territory of Florida, shall each be authorized to elect two members of the Legislative Council of said Territory, as now directed by law; all other counties in said Territory shall, respectively, be authorized to elect one member each, in the manner now directed, or which shall hereafter be prescribed by law; and such counties as have not at this time a member of said council, shall be authorized to elect one before the next session thereof, on the first Monday of September next.

Sec. 2. *And be it further enacted*, That it shall not be lawful for the Legislative Council to employ more than three clerks, nor to direct the printing the laws of said Territory in more than three newspapers, at the public expense.

Sec. 3 *And be it further enacted*, That so much of an act entitled "An act to provide for the compensation of the officers of the council, and for other purposes," as provides, in paragraph number seven, for the superintending the printing the acts, revising the proof sheets, and the allowance therefor; so much of the said act in paragraph number eight, as provides for stitching said acts, and the allowance therefor; and so much of the act as provides in the sixteenth peragraph for a clerk in the Executive office, be and the same is hereby annulled.

Sec. 4. *And be it further enacted*, That it shall be the duty of the Secretary of the Territory to superintend the printing and revision of the laws, and it shall be his duty to send a printed, and not a manuscript copy to the Department of State, and another printed copy to the Secretary of the Senate and Clerk of the House of Representatives of the United States, to be laid before Congress; and the amount appropriated by the said Legislative Council shall not exceed, annually, the sum of seven thousand dollars, including their pay, mileage, printing, and incidental expenses.

Sec. 5. *And be it further enacted*, That an act entitled "An act to alter and fix permanently the sessions of the superior court of the district of East Florida," be, and the same is hereby, approved.

Sec. 6 *And be it further enacted*, That the twenty-first section of an act entitled "An act in addition to the several acts now in force, regulating judicial proceedings," passed February fifteen, one thousand eight hundred and thirty-four, be, and the same is hereby, annulled.

Approved, June 18, 1834.

AN ACT making appropriations for the Indian department for the year one thousand eight hundred and thirty-four.

Be it enacted, &c, That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the Indian department for the year one thousand eight hundred and thirty-four, viz:

For the salary of the Commissioner of Indian Affairs, three thousand dollars.

For the salary of the clerks in the office of the Commissioner, five thousand dollars.

For compensation for the messenger, seven hundred dollars.

For office contingencies, eight hundred dollars.

For pay of the Superintendent of Indian Affairs at St. Louis, and the several Indian agents, as authorized by law, twenty-six thousand dollars.

For clerk in the office of Superintendent of Indian Affairs, one thousand dollars.

For pay of subagents, as allowed by law, sixteen thousand five hundred dollars.

For pay of interpreters and translators, employed at the several superintendencies and agencies, eighteen thousand eight hundred dollars.

For pay of gun and blacksmiths, and their assistants, employed within the several superintendencies and agen-

cies under the orders of the War Department, six thousand four hundred and eighty dollars.

For presents to Indians, as authorized by the act of eighteen hundred and two, fifteen thousand dollars.

For the purchase of iron, steel, and coal, and for other expenses attending the gun and blacksmith shops, one thousand four hundred and sixty-five dollars.

For provisions for Indians at the distribution of annuities while on visits of business with the different superintendents and agents, and when assembled on public business, eleven thousand eight hundred dollars.

For the necessary buildings required at the several agencies, and repairs thereof, two thousand dollars.

For contingencies of the Indian department, twenty thousand dollars.

For holding a treaty with the Wyandot tribe of Indians, one thousand dollars.

Approved, June 18, 1834.

AN ACT to revive the act entitled "An act to grant pre-emption rights to settlers on the public lands," approved May twenty-nine, one thousand eight hundred and thirty.

Be it enacted, &c., That every settler or occupant of the public lands, prior to the passage of this act, who is now in possession, and cultivated any part thereof, in the year one thousand eight hundred and thirty-three, shall be entitled to all the benefits and privileges provided by the act entitled "An act to grant pre-emption rights to settlers on the public lands," approved May twenty-nine, one thousand eight hundred and thirty; and the said act is hereby revived and shall continue in force two years from the passage of this act, and no longer.

Sec. 2. *And be it further enacted*, That where a person inhabits one quarter section and cultivates another, he shall be permitted to enter the one or the other, at his discretion: *Provided*, Such occupant shall designate within six months from the passage of this act the quarter section of which he claims the pre-emption under the same.

Sec. 3. *And be it further enacted*, That all persons residing on the public lands, and cultivating the same, prior to the year eighteen hundred and twenty-nine, and who were deprived of the advantages of the law passed on the twenty-ninth May, eighteen hundred and thirty, by the constructions placed on said law by the Secretary of the Treasury, be, and they are hereby, authorized to enter, at the minimum price of the Government, one quarter section of the public lands within said land district.

Approved, June 19, 1834.

AN ACT further to extend the term of certain pensions chargeable on the Privateer Pension Fund.

Be it enacted, &c., That the pensions of all widows who now are or have been heretofore in the receipt thereof, under the provision of the act entitled "An act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States," passed the fourth day of March, one thousand eight hundred and fourteen, and the act entitled "An act in addition to an act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States," passed the sixteenth day of April, one thousand eight hundred and eighteen, or either of said acts, so far as regards persons receiving pensions from the fund arising from captures and salvage made by the private armed vessels of the United States, be, and the same are hereby, continued, under the restrictions and regulations in the said acts contained, for and during the additional term of five years from and after the period of the expiration of the said pensions, respectively: *Provided, however*, That the said pensions shall be paid from the proceeds of the Privateer Pension Fund, and without recourse to the United States for any deficiency which may hereafter arise thereon, if any such there be: *And provided, further*, That no such pension shall be paid to any widow after her intermarriage, had or to be had.

Approved, June 19, 1834.

AN ACT to grant to the State of Ohio certain lands for the support of schools in the Connecticut Western Reserve.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized and required to reserve from sale, out of any public lands that have been heretofore offered at public sale, and that remain unsold in the State of Ohio, a quantity of land, which, together with the lands heretofore granted for the support of schools in the Connecticut Western Reserve, in said State, shall be equal to one thirty-sixth part of said Western Reserve; which said quantity of land may be reserved in sections, or half sections, or quarter sections; and, when so reserved, the same shall vest in the said State of Ohio, for the support of schools in said Western Reserve, and be holden by the same tenure, and upon the same terms and conditions, in all respects, as the said State now holds, or may hold, the lands heretofore granted for the support of schools in said Western Reserve.

Approved, June 19, 1834.

AN ACT to extend the time allowed for the discharge of the duties of the commission for carrying into effect the Convention with France.

Be it enacted, &c., That so much of an act entitled "An act to carry into effect the Convention between the United States and his Majesty the King of the French, concluded at Paris on the fourth day of July, eighteen hundred and thirty-one," approved July thirteenth, eighteen hundred and thirty-two, as limits the duration of the commission created by the said act to two years, be, and the same is hereby, repealed; and that a period of three years, commencing on the first Monday of August, one thousand eight hundred and thirty-two, be allowed for the discharge of the duties prescribed by the said act.

Approved, June 19, 1834.

AN ACT supplementary to the act entitled "An act to carry into effect the Convention between the United States and his Majesty the King of the Two Sicilies, concluded at Naples on the fourteenth day of October, one thousand eight hundred and thirty-two."

Be it enacted, &c., That the further time of six months, in addition to the time specified in the act to which this is a supplement, be, and hereby is, allowed to the commissioners appointed by the President to execute and complete the duties imposed upon them by the provisions of the aforesaid act, approved on the second day of March, anno Domini, eighteen hundred and thirty-three.

Approved, June 19, 1834.

AN ACT for the reappropriation of an unexpended balance of a former appropriation for the payment of the Georgia militia claims for the years one thousand seven hundred and ninety-two, one thousand seven hundred and ninety-three, and one thousand seven hundred and ninety-four.

Be it enacted, &c., That the sum of thirty-seven thousand six hundred and sixty-nine dollars and forty-seven cents, being the unexpended balance of a former appropriation for the payment of claims of the militia of Georgia for services performed in the years one thousand seven hundred and ninety-two, one thousand seven hundred and ninety-three, and one thousand seven hundred and ninety-four, which said unexpended balance has been carried to the account of the surplus fund, be, and the same is here-

by, reappropriated, for the payment of the said militia claims of the State of Georgia.

Approved, June 19, 1834.

AN ACT making additional appropriations for the armory at Harper's Ferry, for the year eighteen hundred and thirty-four.

Be it enacted, &c., That, for the purpose of completing the canal from the public dam across the Potomac river to the works at the armory at Harper's Ferry, the sum of three thousand three hundred and seventy-eight dollars and twenty-seven cents be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, June 19, 1834.

AN ACT for the relief of the heirs or legal representatives of Doctor John Berrien, deceased.

Be it enacted, &c., That the proper accounting officers of the Treasury Department be, and they are hereby, directed to revise the settlement of the account of Doctor John Berrien, commissary of the hospital department in the revolutionary army, made by Benjamin Walker, commissioner of accounts of the hospital, clothing, and marine departments of said army, and to allow to the heirs or legal representatives of said Doctor John Berrien the compensation fixed by the resolution of Congress of February six, seventeen hundred and seventy-eight, as specie, according [to] the report of said Benjamin Walker, made to Congress on the fifteenth of September, seventeen hundred and eighty-six, which is of record in the report book kept by said Walker, and filed in the office of the First Auditor of the Treasury; and that, on said settlement, if any balance is found due from the United States, the same be paid, with the interest now due, to the heirs or legal representatives of the said Doctor John Berrien, as though a certificate had regularly issued therefor at the time it became due, and the same had been subscribed to the loan created by the act of seventeen hundred and ninety; and that the same be paid out of any money in the Treasury not otherwise appropriated.

Approved, June 19, 1834.

AN ACT for the continuation and repair of the Cumberland road.

Be it enacted, &c., That the sum of two hundred thousand dollars be, and the same is hereby, appropriated, for the purpose of continuing the Cumberland road in the State of Ohio; also, that the sum of one hundred and fifty thousand dollars be, and the same is hereby, appropriated, for continuing the Cumberland road in the State of Indiana; and that the sum of one hundred thousand dollars be appropriated for continuing said road in the State of Illinois; which sums shall be paid out of any money not otherwise appropriated, and replaced out of the fund reserved for laying out and making roads under the direction of Congress, by the several acts passed for the admission of the States of Ohio, Indiana, and Illinois, into the Union, on an equal footing with the original States.

Sec. 2. *And be it further enacted*, That an officer of the corps of engineers, to be selected by the Department of War, shall be charged with the disbursements of the moneys appropriated for the construction of the Cumberland road through the States of Indiana and Illinois; and that said officer shall have, under the direction of the engineer department, a general control over the operations of the said road, and over all persons employed thereon: *Provided*, That no per centage shall be allowed to such officer for disbursing moneys appropriated for the construction of said road.

Sec. 3. *And be it further enacted*, That for the entire completion of repairs of the Cumberland road, east of the Ohio river, and other needful improvements on said road, to carry into effect the provisions of an act of the General Assembly of Pennsylvania, entitled "An act for the preservation and repair of the Cumberland road," passed the fourth day of April, one thousand eight hundred and thirty-one; and of an act of the General Assembly of the State of Maryland, entitled "An act for the preservation and repair of that part of the United States road, within the limits of the State of Maryland," passed the twenty-third day of January, one thousand eight hundred and thirty-two; also, an act of the General Assembly of Virginia, entitled "An act concerning the Cumberland road," passed February the seventh, one thousand eight hundred and thirty-two; the sum of three hundred thousand dollars be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War: the money to be drawn out of the Treasury in such sums, and at such times as may be required for the performance of the work.

Sec. 4. *And be it further enacted*, That as soon as the sum by this act appropriated, or so much thereof as is necessary, shall be expended in the repair of said road, agreeably to the provisions of this act, the same shall be surrendered to the States, respectively, through which said road passes; and the United States shall not thereafter be subject to any expense for repairing said road.

Approved, June 24, 1834.

AN ACT regulating the value of certain Foreign Silver Coins within the United States.

Be it enacted, &c., That from and after the passage of this act, the following silver coins shall be of the legal value, and shall pass current as money within the United States, by tale, for the payment of all debts and demands, at the rate of one hundred cents the dollar; that is to say, the dollars of Mexico, Peru, Chili, and Central America, of not less weight than four hundred and fifteen grains each, and those restamped in Brazil of the like weight, of not less fineness than ten ounces fifteen pennyweights of pure silver, in the troy pound of twelve ounces of standard silver; and the five franc pieces of France, when of not less fineness than ten ounces and sixteen pennyweights in twelve ounces troy weight of standard silver, and weighing not less than three hundred and eighty-four grains each, at the rate of ninety-three cents each.

Sec. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to cause assays of the aforesaid silver coins, made current by this act, to be had at the mint of the United States at least once in every year, and to make report of the result thereof to Congress.

Approved, June 25, 1834.

AN ACT to change the boundary between the south-eastern and western land districts in the Territory of Michigan, and for other purposes.

Be it enacted, &c., That all the public lands of the United States within the limits of the counties of Calhoun and Branch, in the Territory of Michigan, which are now subject to sale at the land office at Monroe, shall, from and after the passage of this act, be set off to, and form a part of, the western land district in said Territory; and all that part of said Territory lying east of the aforesaid counties, and south of the base line, and west of the principal meridian, and, also, all the country east of the principal meridian and south of the line between townships numbered three and four south, except so much thereof as lies north of the river Huron of Lake Erie, shall continue to belong to, and form a part of, the south-eastern land district in said Territory, the land office for which is now located at Monroe, but shall be subject to be removed from time to time to such place as the President of the United States may order and direct.

Approved, June 25, 1834.

AN ACT making appropriations for Indian annuities, and other similar objects, for the year one thousand eight hundred and thirty-four.

Be it enacted, &c., That the following sums be, and they are hereby, appropriated, for the payment of annuities due to various Indians and Indian tribes, and other objects hereinafter enumerated, according to the stipulations of certain Indian treaties, to be paid out of any money in the Treasury not otherwise appropriated; that is to say:

To the Six Nations of Indians in New York, four thousand seven hundred and fifty dollars.

To the Senecas of New York, six thousand dollars.

To the Ottawas, four thousand three hundred dollars.

To the Wyandot, six thousand seven hundred and forty-five dollars.

To the Wyandots, Munsees, and Delawares, one thousand dollars.

To the Christian Indians, four hundred dollars.

To the Miamies, twenty-nine thousand and twenty dollars.

To the Eel Rivers, one thousand one hundred dollars.

To the Potawatimies, twenty thousand six hundred and twenty dollars.

To the Potawatimies of Huron, four hundred dollars.

To the Potawatimies of the Prairie, sixteen thousand dollars.

To the Potawatimies of the Wabash, twenty thousand dollars.

To the Potawatimies of Indians, seventeen thousand dollars.

To the Chippewas, Ottawas, and Potawatimies, sixteen thousand and nine hundred and ninety-five dollars.

To the Winnebagoes, thirty-seven thousand eight hundred and forty dollars.

To the Menomonies, twenty thousand and forty dollars.

To the Chippewas, five thousand eight hundred dollars.

To the Chippewas, Menomonies, and New York Indians, one thousand five hundred dollars.

To the Sioux of Mississippi, three thousand seven hundred dollars.

To the Yancton, and Santie bands of Sioux, four thousand four hundred dollars.

To the Omahas, four thousand dollars.

To the Sacs of Missouri, one thousand four hundred dollars.

To the Sacs, three thousand dollars.

To the Foxes, three thousand dollars.

To the Ioways, five thousand three hundred and thirty dollars.

To the Sacs and Foxes, twenty-five thousand three hundred and twenty dollars.

To the Sacs, Foxes, and Ioways, three thousand dollars.

To the Ottoes and Missourias, four thousand dollars.

To the Kanzas, five thousand nine hundred and forty-five dollars.

To Osages, eleven thousand and seventy dollars.

To the Kickapoos, eight thousand five hundred dollars.

To the Kaskaskias and Peorias, two thousand and fifty dollars, in addition to the sum of one thousand dollars in the hands of the Superintendent at St. Louis.

To the Kaskaskias, and Peorias, Weas, and Piankeshaws, one thousand dollars.

To the Piankeshaws, eight hundred dollars.

To the Weas, three thousand dollars.

To the Piankeshaws, five hundred dollars.

To the Delawares, seven thousand eight hundred and seventy dollars.

To the Shawanees, three thousand eight hundred and forty dollars.

To the Shawanees and Delawares, one thousand dollars.

To the Shawanees, and Senecas of Lewistown, one thousand seven hundred and eighty dollars:

To the Senecas of Lewistown, two thousand three hundred and fifty dollars.

To the Choctaws, sixty-six thousand five hundred and thirty dollars.

To the Chickasaws, three thousand dollars.

To the Creeks, fifty-four thousand four hundred and fifty-five dollars.

To the Cherokees, twelve thousand dollars.

To the Quapaws, two thousand dollars.

To the Florida Indians, seven thousand dollars.

For to carry into effect the fourth article of the treaty with the Appalachicola Band of Indians in Florida, approved thirteenth of February, eighteen hundred and thirty-three, three thousand five hundred and ten dollars.

To the Menomonies, five thousand dollars, for the annuity for the year eighteen hundred and thirty-two.

For the expenses of transportation and distribution of annuities, salt, agricultural implements, and tobacco, tools, &c., and other incidental expenses not otherwise enumerated, twenty-nine thousand five hundred dollars.

Sec. 2. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, viz:

For running the lines and marking out the reservations for the Sacs and Foxes, under the first and second articles of the treaty with them, of twenty-first September, eighteen hundred and thirty-two, two thousand dollars.

For expenses of locating reservations and certifying contracts under the Creek treaty of twenty-fourth March, eighteen hundred and thirty-two, fifteen thousand two hundred and twenty-three dollars and thirty-seven cents.

For payment to the Stockbridge and Munsees Indians, for improvements on the lands on the east side of Fox river, agreeably to the provisional ratification of the treaty with said Indians, of ninth July, eighteen hundred and thirty-two, twenty-four thousand two hundred and twenty-six dollars.

For payment to the Brothertown Indians for improvements on the land east of Fox river, agreeably to the same proviso of said treaty, sixteen hundred dollars.

For expenses of running the lines provided for by said treaty, and for surveying the tracts for the aforesaid Indians, two thousand dollars.

For expenses of selecting and locating reservations under the several treaties with the Potawatimies, of twentieth, twenty-sixth, and twenty-seventh October, eighteen hundred and thirty-two, one thousand five hundred dollars.

For expenses of running the dividing line between the Choctaws and Chickasaws, one thousand five hundred dollars.

For expenses of running the lines between the Chippewas and Sioux, under the fifth article of the treaty with them of nineteenth August, eighteen hundred and twenty-five, seven thousand dollars.

For to run the lines between the Sacs and Foxes, and to complete the surveys under the treaty of Prairie du Chien, of fifteenth July, eighteen hundred and thirty, the sum of two thousand dollars.

For expenses of the commission heretofore appointed to visit and examine the Indian country, adjust difficulties which may exist in the location of the lands of the emigrating Indians in the boundaries thereof, and ascertain and report the proper places of location for such tribes, and portions of tribes, as may yet wish to remove to that country, for that part of the year eighteen hundred and thirty-four included within the term of their appointment, twenty thousand dollars.

For the payment of claims due by the Potawatimie Indians to white citizens, and for horses delivered by order of the commissioners to the Indians, and not embraced in the schedule which accompanied the treaty of October,

eighteen hundred and thirty two, as the Secretary of War shall ascertain to have been omitted, not exceeding one thousand dollars.

For payment of claims to Cherokees of Arkansas, in addition to eight thousand seven hundred and sixty dollars, appropriated twenty-fourth May, eighteen hundred and twenty-eight, which sum, it is ascertained, falls short of the sum actually required, two hundred and fifty-eight dollars and thirty-three cents.

For compensation to Isaac McCoy for expenses of surveying the lands assigned to the Piankeshaws, Weas, Kaskaskias, and Peorias, and for extending the survey of the Shawnee lands, two thousand one hundred and two dollars.

For surveying Indian reservations in the neighborhood of Michilimackinac, in the Territory of Michigan, four hundred and fifty dollars.

For the payment of claims ascertained upon settlement to be due, for provisions and bounty money, for Indians emigrating west, under the treaty with the Creeks, five thousand one hundred and thirty-six dollars, ninety-three cents.

For removing five thousand Creeks from the Creek country east of the Mississippi to their new country west of that river, including subsistence on the route, and for one year after their arrival west of the Mississippi, and all other expenses attending their emigration, as provided for by the twelfth article of the treaty of the twenty-fourth of March, eighteen hundred and thirty-two, two hundred and forty-one thousand eight hundred and seventy-five dollars.

For rifles, moulds, wipers, ammunition, and blankets, and transportation of the same, as provided for by the thirteenth article of the treaty of the twenty-fourth of March, eighteen hundred and thirty-two, with the said Creek tribe of Indians, twenty thousand eight hundred and seventy-five dollars.

For removing such portion of the Cherokees as may emigrate during the present year from the Cherokee country east of the Mississippi, to their new country west of that river, including subsistence on the route and for one year after their arrival west of the Mississippi, and all other expenses attending their emigration, sixty-eight thousand three hundred and twenty-five dollars.

Sec. 3. *And be it further enacted,* That the sum of one hundred and twelve thousand eight hundred and fifty-three dollars and seventy-eight cents, paid into the Treasury under the provisions of the act of February nineteenth, eighteen hundred and thirty-one, entitled "An act to provide hereafter for the payment of six thousand dollars annually to the Seneca Indians, and for other purposes," and now standing to the credit of Indian contingencies, shall be applied to, and be subject to, the payment of the annuities authorized to be paid by the provisions of this act: *Provided,* That the claim of the Seneca Indians against the United States, for the said sum of money, shall continue of the same force and effect as it now is.

Sec. 4. *And be it further enacted,* That the sum of eleven thousand one hundred and sixty dollars be, and the same is hereby, appropriated, to be paid out of any money not otherwise appropriated, to be distributed to the Creek Indians, friends and followers of General McIntosh, who emigrated under the treaty of January twenty-fourth, eighteen hundred and twenty-six, and who have not received their proportions of the sums stipulated to be paid under the ninth article of the said treaty.

Sec. 5. *And be it further enacted,* That the annuities to the Cherokees, for which appropriations are made in this act, shall be paid to the chiefs of the tribe, or to such person or persons as the tribe shall appoint.

Approved, June 26, 1834.

AN ACT for the relief of the town of Fayetteville, in the Territory of Arkansas.

Whereas the seat of justice of Washington county, in the Territory of Arkansas, was located and called Fayetteville, prior to the public surveys being made, and when the lands were surveyed, the said town fell on section number sixteen, which by law is reserved for the use of schools; and whereas the said town is situated on the south half of the northeast quarter, and the north half of the southeast quarter, of section number sixteen, in township number sixteen, north of range number thirty, west of the fifth principal meridian, Therefore,

Be it enacted, &c. That the trustee of the school lands in and for township number sixteen, north of range thirty, west of the fifth principal meridian, in the Territory of Arkansas, be, and he is hereby, authorized to select and have set apart for the use of schools in said township, one entire section of any unimproved lands in said township, in lieu of section number sixteen; and when the said trustee shall make his selection, he shall file the same in the office of the register of the Fayetteville land office, and the land so selected shall be reserved from sale, and set apart for the use of schools; and that section number sixteen, in said township, shall be subject to sale and entry as other public lands now are.

Sec. 2. *And be it further enacted,* That the south half of the northeast quarter, and the north half of the southeast quarter, of section number sixteen, in township number sixteen, north of range number thirty, west of the fifth principal meridian, in the Territory of Arkansas, be, and is hereby, granted to Louis Evans, Larkin Newton, Samuel Vaughan and John Woody, commissioners of said county, in trust for the use of said county; and that the Secretary of the Treasury be authorized to issue a patent for the same; and that the said commissioners shall have power to lay off the said lands into town lots, and sell and dispose of the same, and make good and sufficient titles to purchasers; and they shall appropriate the proceeds of the sales of the said lots to the erection of a court-house and jail in the town of Fayetteville, for the use of said county.

Approved, June 26, 1834.

AN ACT to create additional land districts in the States of Illinois and Missouri, and in the Territory north of the State of Illinois.

Be it enacted, &c. That all that tract of country lying north of the dividing line between townships number twelve and thirteen, north of the base line running through the military bounty lands, and that tract of country lying north of the dividing line between townships number thirty and thirty-one, north of the old base line included in the State of Illinois, and all that tract of country lying north of the State of Illinois, west of Lake Michigan, and south and southeast of the Winconsin and Fox rivers of Green Bay, in the present Territory of Michigan, be laid off into four new land districts, to be divided and designated as follows, to wit: That tract lying within the State of Illinois, as above described, shall be divided by a north-and south line, drawn between the range of townships number three and four, east of the third principal meridian, and that on the west side of said line shall be called the northwest, and that on the east, the northeast land district of the State of Illinois; and all that tract north of the State of Illinois, west of Lake Michigan, south and southeast of the Wisconsin and Fox rivers, included in the present Territory of Michigan, shall be divided by a north and south line, drawn from the northern boundary of Illinois, along the range of township line next west of Fort Winnebago, to the Wisconsin river, and be called, the one on the west side, the Wisconsin, and that on the east side, the Green Bay land districts of the Territory of Michigan; which two districts shall embrace the country north of said rivers, when the Indian title shall become extinguished, and the Green Bay district may be divided so as to form two districts, when the President shall deem it proper.

Sec. 2. *And be it further enacted,* That there shall be established in each of the said land districts, one land office, at such time and place as the President may designate, to be removed whenever he may deem it expedient for the public convenience.

Sec. 3. *And be it further enacted,* That the President, by and with the consent of the Senate, so soon as a sufficient number of townships are surveyed, and returns thereof made to the General Land Office, to authorize the commencement of the sales in either of said districts, to appoint one register and one receiver for each land office so established, who shall reside at the place designated for the land office, and give security, and discharge all duties pertaining to such office, as prescribed by law.

Sec. 4. *And be it further enacted,* That the President shall be authorized, so soon as the survey shall have been completed, to cause to be offered for sale, in the manner prescribed by law, all the lands lying in said land districts, at the land offices in the respective districts in which the land so offered is embraced, reserving only section sixteen in each township, the tract reserved for the village of Galena, such other tracts as have been granted to individuals and the State of Illinois, and such reservations as the President shall deem necessary to retain for military posts, any law of Congress heretofore existing to the contrary notwithstanding.

Sec. 5. *And be it further enacted,* That so much of the public lands of the United States, in the State of Missouri, as lies west of the range line between ranges ten and eleven west of the fifth principal meridian, and south of the line dividing townships numbers forty and forty-one north of the base line, shall form a new land district, to be called the Southwestern land district; and for the sale of the public lands within the district aforesaid, there shall be a land office established at such place within said district as the President of the United States may designate.

Sec. 6. *And be it further enacted,* That there shall be a register and receiver appointed to said office, to superintend the sale of public land in said district, who shall reside at the place where said office is established, give security in the same manner and sums, and whose compensation, emoluments, duties, and authorities, shall in every respect be the same, in relation to lands to be disposed of at said office, as are, or may be, by law provided, in relation to the registers and receivers of public money in the several offices established for the sale of the public lands.

Sec. 7. *And be it further enacted,* That all such public lands embraced within the district created by this act, which shall have been offered for sale to the highest bidder at the several land offices, at Jackson, Franklin, Fayette, and Lexington, pursuant to any proclamation of the President of the United States, and which lands remain unsold at the taking effect of this act, shall be subject to be entered and sold at private sale, by the proper officers of the office hereby created, in the same manner, and subject to the same terms, and upon like conditions, as the sale of said land would have been subject to in the said several land offices hereinbefore mentioned, had they remained attached to the same: *Provided,* That nothing in this act shall be so construed as to permit the officers appointed in either of the foregoing land districts to receive compensation out of the Treasury of the United States.

Approved, June 26, 1834.

AN ACT to establish an additional land office in Arkansas.

Be it enacted, &c., That so much of the public land of the United States in the Territory of Arkansas as lies east of a line commencing on the southern boundary of the Territory where it is intersected by the dividing line between ranges five and six, west of the meridian, thence with said range line to the dividing line between townships ten and eleven south; thence east with the said line to the dividing line between ranges two and three west, thence north with said dividing line to the base line, thence east with said base line to the dividing line between ranges two and three east, thence north with said line to the dividing line between townships ten and eleven north, thence east with said dividing line to the dividing line between ranges six and seven east, thence north with said dividing line to the nothern boundary of the Territory of Arkansas, shall form a new land district, to be called the Mississippi land district; and for the sale of the public lands within the district aforesaid, there shall be a land office established at the town of Helena, in the county of Phillips, in the Territory aforesaid.

Sec. 2. *And be it further enacted,* That there shall be a register and receiver appointed to said office, to superintend the sale of the public land in said district, who shall reside at the town of Helena aforesaid, give security in the same manner and sums, and whose compensation, emoluments, duties, and authorities, shall, in every respect, be the same in relation to lands to be disposed of at said office, as are or may be by law provided in relation to the registers and receivers of public money in the several offices established for the sale of the public lands.

Sec. 3. *And be it further enacted,* That all such public lands embraced within the district created by this act, which shall have been offered for sale to the highest bidder at any land office in said Territory, pursuant to any proclamation of the President of the United States, and which lands remain unsold at the taking effect of this act, shall be subject to be entered and sold at private sale by the proper officers of the office hereby created, in the same manner, and subject to the same terms and upon like conditions as the sale of said land would have been subject to in the said several land offices hereinbefore mentioned, had they remained attached to the same.

Approved, June 26, 1834.

AN ACT confirming certain land claims in the district of St. Stephens, in Alabama.

Be it enacted, &c., That the decision of the register and receiver of the land office for the district of St. Stephens, in the State of Alabama, as contained in their report bearing date the seventh of March, eighteen hundred and thirty-two, made in pursuance of the act of Congress approved the second of March, eighteen hundred and twenty-nine, entitled "An act confirming the report of the register and receiver of the land office of the district of Saint Stephens, in the State of Alabama, and for other purposes," be, and the same are hereby, confirmed.

Approved, June 26, 1834.

AN ACT for the relief of certain inhabitants of East Florida.

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay, out of any money in the treasury not otherwise appropriated, the amount awarded by the judge of the superior court of St. Augustine, in the Territory of Florida, under the authority of the one hundred and sixty-first chapter of the acts of the seventeenth Congress, approved third March, one thousand eight hundred and twenty-three, for losses occasioned in East Florida, by the troops in the service of the United States, in the year one thousand eight hundred and twelve, and one thousand eight hundred and thirteen, in all cases where the decision of the said judge shall be deemed, by the Secretary of the Treasury, to be just: *Provided,* That no award be paid, except in the case of those who, at the time of suffering the loss, were actual subjects of the Spanish Government: *And provided, also,*

That award be paid for depredations committed in East Florida previous to the entrance, into that province of the agent or troops of the United States.

Sec. 2. *And be it further enacted,* That the judge of the superior court of St. Augustine be, and he hereby is, authorized to receive, examine, and adjudge, all cases of claims for losses occasioned by the troops aforesaid, in one thousand eight hundred and twelve, and one thousand eight hundred and thirteen, not heretofore presented to the said judge, or in which the evidence was withheld, in consequence of the decision of the Secretary of the Treasury, that such claims were not provided for by the treaty of February twenty-second, one thousand eight hundred and nineteen, between the Governments of the United States and Spain: *Provided,* That such claims be presented to the said judge in the space of one year from the passage of this act: *And provided, also,* That the authority therein given shall be subject to the restrictions created by the provisoes to the preceding section.

Approved, June 26, 1834.

AN ACT authorizing the Secretary of War to establish a pension agency in the town of Decatur, in the State of Alabama, and to provide for the paying of certain pensioners in said town of Decatur.

Be it enacted, &c. That the Secretary of War be, and he hereby is, authorized to establish a pension agency at Decatur, in the State of Alabama, for the payment of pensioners of the United States resident in the counties of Jackson, Madison, Limestone, Lauderdale, Franklin, Lawrence, Morgan, Blount, Jefferson, Walker, Fayette, and Marion: *Provided,* That the establishment of such agency can be made without any charge to the United States.

Sec. 2. *And be it further enacted,* That the Secretary of the Treasury be, and he hereby is, authorized to make the necessary arrangements with the branch of the bank of the State of Alabama, established in the said town of Decatur, for the payment of the pensioners hereinbefore described.

Sec. 3. *And be it further enacted,* That this act shall not take effect until the first day of August next.

Approved, June 27, 1834.

AN ACT making appropriations for the civil and diplomatic expenses of Government for the year one thousand eight hundred and thirty-four.

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, to be paid out of any unappropriated money in the Treasury, viz:

For compensation to the President and Vice President of the United States, the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, and the Postmaster General, sixty thousand dollars.

For clerks and messengers in the office of the Secretary of State, twenty thousand three hundred dollars.

For clerks, machinist, and messenger, in the Patent Office, five thousand four hundred dollars.

For incidental and contingent expenses of the Department of State, including the expense of publishing and distributing the laws, and for carrying into effect the resolutions of the Senate of the twenty-sixth of February, eighteen hundred and thirty-three, and thirty-first of March, eighteen hundred and thirty-four, in conjunction with the statistical inquiries set on foot by the late Secretary of State, Edward Livingston, and to reimburse the contingent fund the sum taken therefrom, in prosecution of the same, thirty-one thousand five hundred dollars.

For contingent and incidental expenses of the Patent Office, two thousand one hundred and seventy-five dollars.

For the superintendent and watchmen of the northeast executive building, eight hundred and fifty dollars.

For contingent expenses of said building, including fuel, labor, oil, repairs of the buildings, three thousand three hundred and fifty dollars.

For completing the publication of the diplomatic correspondence of the United States from the peace of seventeen hundred and eighty-three to the fourth of March, seventeen hundred and eighty-nine, thirteen hundred and ninety-two dollars and fifty-two cents.

For the documentary history of the Revolution, per act of March second, eighteen hundred and thirty-three, twenty thousand dollars; and it shall be the duty of the Secretary of State to examine the contract entered into by Edward Livingston, late Secretary of that Department, with Matthew St. Clair Clarke and Peter Force, for the collection and publication of the documentary history of the American Revolution, and make a special report thereon to the next session of Congress, setting forth the nature and character of the materials of which the work is to be composed, the progress made in the work, the number of volumes which will be required to complete it, and an estimate of the money which it may be necessary to appropriate for the fulfilment of the contract.

For the erection of a fence of wood corresponding with that already enclosing the War and Navy buildings, to complete the enclosure of the northeast executive building, sixteen hundred dollars.

For compensation of an additional watchman of the northeast executive building, three hundred dollars.

For reimbursing the fund for the contingent expenses of the northeast executive building, including fuel, labor, oil, and repairs, for so much paid out of that fund for extra watchings during the year eighteen hundred and thirty-three, three hundred and thirty-seven dollars and fifty cents.

For compensation to the clerks and messengers in the office of the Secretary of the Treasury, sixteen thousand seven hundred dollars, including one hundred and fifty dollars additional compensation to the assistant messenger for extra labor.

For compensation to the First Comptroller of the Treasury, three thousand five hundred dollars.

For compensation to the clerks and messengers in the office of the First Comptroller, nineteen thousand three hundred dollars, including two hundred dollars additional compensation to the assistant messenger for extra labor.

For compensation to the Second Comptroller of the Treasury, three thousand dollars.

For compensation to the clerks and messenger in the office of the Second Comptroller, ten thousand four hundred and fifty dollars.

For compensation to the First Auditor of the Treasury, three thousand dollars.

For compensation to the clerks and messenger in the office of the First Auditor, thirteen thousand nine hundred dollars.

For compensation to the Second Auditor of the Treasury, three thousand dollars.

For compensation to the clerks and messenger in the office of the Second Auditor, seventeen thousand nine hundred dollars.

For compensation to the Third Auditor of the Treasury, three thousand dollars.

For compensation to the clerks and messengers in the office of the Third Auditor, twenty-three thousand seven hundred and fifty dollars.

For compensation to the Fourth Auditor of the Treasury, three thousand dollars.

For compensation to the clerks and messenger in the office of the Fourth Auditor, seventeen thousand seven hundred and fifty dollars.

For compensation to the Fifth Auditor of the Treasury, three thousand dollars.

For compensation to the clerks and messenger in the

office of the Fifth Auditor, twelve thousand eight hundred dollars.

For compensation to the Treasurer of the United States, three thousand dollars.

For compensation to the clerks and messenger in the office of the Treasurer of the United States, six thousand seven hundred and fifty dollars.

For compensation to the Register of the Treasury, three thousand dollars.

For compensation to the clerks and messengers in the office of the Register of the Treasury, twenty-four thousand two hundred dollars.

For compensation to the Commissioner of the General Land Office, three thousand dollars.

For compensation to the clerks and messengers in the office of the Commissioner of the General Land Office, twenty thousand five hundred dollars.

For compensation to the Solicitor of the Treasury, three thousand five hundred dollars.

For compensation to the clerks and messenger in the office of Solicitor of the Treasury, three thousand nine hundred and fifty dollars.

For compensation to the secretary to the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For the expenses of stationary, printing, and all other incidental and contingent expenses of the several offices of the Treasury Department, the following several sums, viz:

For the office of the Secretary of the Treasury, including the expenses incurred in consequence of the burning of the Treasury building, ten thousand dollars.

For the office of the First Comptroller, including the sum necessary to supply books and stationary lost in the conflagration, one thousand eight hundred and fifty dollars.

For the office of the Second Comptroller, one thousand five hundred dollars.

For the office of the First Auditor, eight hundred dollars.

For the office of the Second Auditor, one thousand dollars.

For the office of the Third Auditor, eight hundred dollars.

For the office of the Fifth Auditor, one thousand dollars.

For the office of the Treasurer of the United States, one thousand dollars.

For the office of the Register of the Treasury, three thousand dollars.

For the office of the Solicitor of the Treasury, one thousand dollars.

For the office of the Commissioner of the General Land Office, including eighty thousand parchments, and cost of printing patents, eighteen thousand dollars.

For compensation to the legal representatives of the late William Wirt, Esq., in full for professional services rendered the United States in suits relative to lands lying in Missouri, in Alabama, and in Florida, the sum of one thousand dollars.

For additional clerk hire in the issuing of military land scrip, making out of patents for Virginia military surveys, and for private land claims, and in adjusting the accounts of the Surveyors General, four thousand dollars.

For additional clerk hire in writing and recording not less than forty thousand patents, at a price not exceeding fifteen cents each, six thousand dollars.

For compensation to six additional clerks, one year, to aid in registering sales of lands and adjusting the accounts of receivers of public moneys for districts recently created, and for opening tract books, making indexes, and bringing up other arrears, six thousand dollars.

For translations, and for expense of passports and sea letters, three hundred dollars.

For stating and printing the public accounts for the year one thousand eight hundred and thirty-four, one thousand five hundred dollars.

For compensation of superintendent and watchmen of the buildings occupied by the Treasury Department, two thousand one hundred dollars.

For incidental and contingent expenses of said buildings, fuel, labor, oil, and repairs, five thousand dollars.

For compensation to the clerks and messengers in the office of the Secretary of War, twelve thousand six hundred and fifty dollars.

For contingent expenses of the office of the Secretary of War, three thousand dollars.

For books, maps, and plans, for the War Department, one thousand dollars.

For compensation to the clerks and messenger in the office of the Paymaster General, four thousand six hundred dollars.

For contingent expenses of said office, three hundred dollars.

For compensation to the clerks and messenger in the office of the Commissary General of Purchases, three thousand two hundred and fifty dollars.

For contingent expenses of said office, eight hundred dollars.

For compensation to the clerks in the office of the Adjutant General, two thousand nine hundred and fifty dollars.

For contingent expenses of said office, one thousand dollars.

For compensation to the clerks in the office of the Quartermaster General, two thousand one hundred and fifty dollars.

For contingent expenses of said office, six hundred dollars.

For compensation to the clerks in the office of the Commissary General of Subsistence, two thousand nine hundred and fifty dollars.

For contingent expenses of said office, including printing advertisements, two thousand five hundred dollars.

For compensation to the clerks in the office of the Chief Engineer, two thousand nine hundred and fifty dollars.

For contingent expenses of said office, one thousand dollars.

For the services of a lithographer, and the expenses of the lithographic press of the War Department, seven hundred and fifty dollars.

For compensation to the clerks in the Ordnance Office, two thousand nine hundred and fifty dollars.

For contingent expenses of said office, eight hundred dollars.

For compensation to the clerk in the office of the Surgeon General, eleven hundred and fifty dollars.

For contingent expenses of said office, four hundred dollars.

For the salary of a clerk in the Topographical Bureau, one thousand dollars.

For contingent expenses of the Topographical Bureau, one thousand three hundred and seven dollars and fifty cents.

For the salary of a clerk in the Clothing Bureau, seven hundred dollars.

For the salary of the Commissioner of Pensions, two thousand five hundred dollars.

For salaries of clerks transferred from the office of the Secretary of War, four thousand eight hundred dollars.

For salaries of additional clerks, ten thousand six hundred dollars.

For additional or temporary clerk hire for the year eighteen hundred and thirty-four, in order to carry into effect the act of the seventh of June, eighteen hundred and thirty-two, granting revolutionary pensions, five thousand dollars.

For arrearages for salaries and clerk hire, printing, stationary, rent, expenses of procuring revolutionary records, and other contingencies, for the year eighteen hundred and thirty-three, five thousand dollars.

For printing, stationary, rent, expenses of procuring revolutionary records, and other contingencies in the office of the Commissioner of Pensions, six thousand five hundred dollars.

For the salary of the superintendent and watchmen of the northwest executive building, twelve hundred and fifty dollars.

For contingent expenses of said building, including fuel, labor, oil, furniture, repairs of building and improvements of adjoining ground, including arrearages for eighteen hundred and thirty-three, and the sum of one hundred and four dollars and seventeen cents for the rent of rooms occupied by the Bounty Land Bureau, three thousand two hundred and four dollars and seventeen cents.

For fitting up the basement rooms of the executive building occupied by the War Department, six hundred dollars.

For compensation of the clerks and messengers in the office of the Secretary of the Navy, twelve thousand eight hundred and fifty dollars.

For contingent expenses of said office, two thousand seven hundred dollars.

For compensation to the Commissioners of the Navy Board, ten thousand five hundred dollars.

For compensation of the secretary of the Commissioners of the Navy Board, two thousand dollars.

For compensation to clerks, daughtsmen, and messenger, in the office of the Commissioners of the Navy Board, eight thousand four hundred and fifty dollars.

For contingent expenses of the office of the Commissioners of the Navy Board, one thousand eight hundred dollars.

For salary of the superintendent of the southwest executive building, and the watchmen, eight hundred and fifty dollars.

For contingent expenses of said building, including fuel, labor, oil, repairs of building, engine, and improvement of the grounds, three thousand three hundred and fifty dollars.

For compensation to the two Assistant Postmasters General, five thousand dollars.

For compensation to the clerks and messengers in the office of the Postmaster General, forty-one thousand one hundred dollars.

For contingent expenses of said office, seven thousand five hundred dollars.

For superintendency of the buildings, making up blanks, and compensation to two watchmen and one laborer, sixteen hundred and forty dollars.

For additional clerk hire for the year eighteen hundred and thirty-three, thirty-one thousand seven hundred and thirty-one dollars and forty-four cents.

For the repairs of the buildings occupied by the General Post Office, three thousand three hundred and thirty-four dollars and thirty-one cents.

For compensation to the Surveyor General in Ohio, Indiana, and Michigan, two thousand dollars.

For compensation to the clerks in the office of said Surveyor, two thousand one hundred dollars.

For additional clerk hire, in order to bring up the arrears, and transcribing field notes of said office, for the purpose of having them preserved at the seat of Government, three thousand five hundred dollars.

For compensation to the Surveyor in Illinois and Missouri, two thousand dollars.

For compensation to the clerks in the office of said Surveyor, four thousand eight hundred and twenty dollars.

For additional clerk hire, in order to bring up the arrears, and for transcribing the field notes of said office, for the purpose of having them preserved at the seat of Government, one thousand dollars.

For compensation to the Surveyor General in Arkansas, one thousand five hundred dollars.

For compensation to clerks in said office, one thousand eight hundred dollars.

For additional clerk hire, in order to bring up the arrears, and for transcribing the field notes of said office, for the purpose of having them preserved at the seat of Government, one thousand dollars.

For compensation to the Surveyor in Louisiana, two thousand dollars.

For compensation to the clerks in the office of said Surveyor, fifteen hundred dollars.

For additional clerk hire, in order to bring up the arrears, and for transcribing the field notes of said office, for the purpose of having them preserved at the seat of Government, one thousand dollars.

For compensation to the Surveyor in Mississippi, two thousand dollars.

For compensation to the clerks in the office of said Surveyor, two thousand seven hundred dollars.

For additional clerk hire, in order to bring up the arrears, and for transcribing the field notes of said office, for the purpose of having them preserved at the seat of Government, two thousand three hundred dollars.

For compensation to the Surveyor in Alabama, two thousand dollars.

For compensation to the clerk and draughtsman in the office of the said Surveyor, one thousand dollars each.

For additional clerk hire, in order to bring up the arrears, and for transcribing the field notes of said office, for the purpose of having them preserved at the seat of Government, two thousand five hundred dollars.

For compensation to the Surveyor in Florida, two thousand dollars.

For compensation to the clerks in the office of said Surveyor, three thousand dollars.

For additional clerk hire, in order to bring up the arrears and for transcribing the field notes of said office, for the purpose of having them preserved at the seat of Government, one thousand five hundred dollars.

For enabling the respective Surveyors General to furnish the several land offices, commencing under the credit system, with renewed township plats, under the direction of the Secretary of the Treasury, in cases where those previously furnished have been defaced, or become materially injured by use, five thousand dollars.

For compensation to the Secretary appointed by the President to sign all patents for lands sold or granted under the authority of the United States, per act of second March, eighteen hundred and thirty-three, including arrears of salary not paid for eighteen hundred and thirty-three, the sum of two thousand seven hundred and fifty dollars.

For compensation to the Commissioner of the Public Buildings in Washington City, two thousand dollars.

For purchase of books for the library of Congress, five thousand dollars.

For salary of the principal and assistant librarians, and for contingent expenses of the library and pay of messenger, three thousand seven hundred and fifty dollars.

For compensation to the officers and clerk of the mint, ten thousand six hundred dollars.

For compensation to assistants in the several departments of the mint, and wages of laborers employed in the various operations of the establishment, including one thousand dollars for the salary of an assistant assayer, and one thousand five hundred dollars for his services and expenses during a visit to Europe on behalf of the mint, in order to examine certain processes in the treatment of the

precious metals, twenty thousand eight hundred and twenty dollars.

For incidental and contingent expenses and repairs, cost of machinery, for allowance for wastage in gold and silver coinage of the mint, twenty thousand and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Michigan Territory, seven thousand eight hundred dollars.

For contingent expenses of the Michigan Territory, three hundred and fifty dollars.

For compensation and mileage of the members of the Legislative Council, pay of the officers of the Council, fuel, stationary, and printing, of the Territory of Michigan, eleven thousand four hundred and forty-eight dollars.

For arrearages for compensation and mileage of the members of the Legislative Council of Michigan Territory, pay of officers of the Council, fuel, stationary, and printing, for the year eighteen hundred and thirty-three, four thousand seven hundred and twenty-five dollars and thirty-five cents.

For compensation to the Governor, Judges, and Secretary of the Arkansas Territory, including additional compensation to the Judges, under the act of twentieth April, eighteen hundred and thirty-two, at eight hundred dollars each, from the sixteenth March, eighteen hundred and thirty-three, to thirty-first December, eighteen hundred and thirty-four, thirteen thousand five hundred and thirty-three dollars and thirty-three cents.

For incidental expenses of the Legislative Council of said Territory, per act of twenty-fourth May, eighteen hundred and twenty-eight, omitted last year, seven hundred and twenty dollars.

To defray the expenses of compiling and printing the laws of the Territory of Arkansas, under the direction and superintendence of the Governor of said Territory, three thousand dollars.

For contingent expenses of Arkansas Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Florida Territory, including additional compensation per act of twenty-sixth May, eighteen hundred and thirty, of eight hundred dollars to the Judge of the superior court of the eastern district of said Territory, eleven thousand three hundred dollars.

For additional compensation for the year eighteen hundred and thirty-three, to the Judges of the superior courts of the eastern and southern districts of the Florida Territory, one thousand six hundred dollars, in lieu of an appropriation of last year of one thousand six hundred dollars, for "additional compensation of two of the said Judges" of the Florida Territory.

For contingent expenses of the Florida Territory, three hundred and fifty dollars.

For compensation and mileage of the members of the Legislative Council of Florida, pay of officers and servants of the Council, fuel, stationary, and printing, nine thousand one hundred and seventy-three dollars and twenty-four cents.

For arrearages for the compensation and mileage of the members of the Legislative Council of Florida, pay of officers and servants of the Council, fuel, stationary, printing, and the distribution of the laws, for the year eighteen hundred and thirty-three, two thousand seven hundred and nineteen dollars and fifty cents.

For allowances to the law agent and assistant counsel, under the acts for the settlement of private land claims in Florida, including arrearages, nine thousand eight hundred and seventy-five dollars.

For compensation to the Chief Justice, the Associate Judges, and district Judges of the United States, eighty-one thousand four hundred dollars.

For the expenses of printing the records of the Supreme Court of the United States for the term of eighteen hundred and thirty-four, three thousand dollars.

For the salaries of Chief Justice and Associate Judges of the District of Columbia, and of the Judges of the Orphans' Courts of the said District, nine thousand five hundred dollars.

For compensation to the Attorney General of the United States, four thousand dollars.

For compensation to the clerk in the office of the Attorney General, eight hundred dollars.

For a messenger in said office, five hundred dollars.

For contingent expenses of said office, five hundred dollars.

For compensation to the reporter of the decisions of the Supreme Court, one thousand dollars.

For compensation to the District Attorneys and Marshals, as granted by law, including those in the several Territories, twelve thousand seven hundred dollars.

For defraying the expenses of the Supreme, Circuit, and District Courts of the United States, including the District of Columbia; also for jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures, incurred in the year eighteen hundred and thirty-four, and preceding years; and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offences committed against the United States, and for the safe-keeping of prisoners, two hundred and sixty thousand dollars.

For the payment of sundry pensions granted by special acts of Congress, one thousand three hundred and fifty dollars.

For the support and maintenance of light-houses, floating lights, beacons, buoys and stakeages, including the purchase of lamps, oil, keepers' salaries, repairs and improvements, and contingent expenses, two hundred and fifty-one thousand seven hundred and twenty-six dollars and seventy-nine cents.

For the salaries of registers and receivers of land offices where there are no sales, three thousand five hundred dollars.

For surveying the public lands, and for establishing a permanent and conspicuous land-mark on the line dividing the States of Indiana and Illinois at some suitable point near lake Michigan, in addition to the unexpended balance of former appropriations, sixty-thousand dollars.

For surveying a portion of the public lands in the south-western part of the State of Missouri, to which the Indian title was extinguished in eighteen hundred and thirty-two, twenty thousand dollars.

For the salaries of two keepers of the public archives in Florida, one thousand dollars.

For compensation to the recorder, two commissioners, and translators, for the final adjustment of private land claims in Missouri, per act of ninth July, eighteen hundred and thirty-two, which act, and a supplemental act of second March, eighteen hundred and thirty-three, are hereby continued in force for one year from the first of October next, including an unexpended balance of former appropriations of eight hundred and ninety-two dollars and seventy-two cents, the sum of five thousand one hundred and seven dollars and twenty-eight cents.

For contingent expenses and office rent of said board, five hundred dollars.

For contingent expenses of said board for eighteen hundred and thirty-four, including compensation to the agent employed to convey annual report of the board to the seat of Government, including also expenses incurred by commissioners in taking testimony, and for payment of balances of claims admitted in due course of settlement at the Treasury, one thousand nine hundred and thirty-eight dollars and sixty-two cents.

For stationary and books for the offices of commissioners of loans, one thousand two hundred dollars.

For registers for ships and vessels, and lists of crews, two thousand three hundred dollars.

For the discharge of such miscellaneous claims against the United States, not otherwise provided for, as shall be ascertained and admitted in due course of settlement at the Treasury, twelve thousand dollars.

For salaries of the Ministers of the United States to Great Britain, France, Spain, and Russia, thirty-six thousand dollars.

For salaries of the Secretaries of Legation to the same places, eight thousand dollars.

For the salaries of the Charges des Affaires to Portugal, Denmark, Sweden, Holland, Turkey, Belgium, Brazil, Buenos Ayres, Chili, Peru, Mexico, Central America, and New Granada, fifty-eight thousand five hundred dollars.

For the salary of the Drogoman to the legation of the United States to Turkey, and for contingent expenses of that legation, six thousand five hundred dollars.

For outfits of a Minister of the United States to Russia, and a Charge des Affaires to Buenos Ayres, Chili, and Brazil, twenty-two thousand five hundred dollars.

For contingent expenses of all the missions abroad, thirty thousand dollars.

For the salaries of the agents for claims at London and Paris, four thousand dollars.

For the expenses of intercourse with the Mediterranean Powers, twenty-four thousand four hundred dollars.

For the relief and protection of American seamen in foreign countries, thirty thousand dollars.

For the contingent expenses of foreign intercourse, thirty thousand dollars.

For compensation and expenses of an agent to Havana, to procure the archives of Florida, four thousand five hundred dollars.

For compensation to the Judges of the Western and Middle districts of Florida, under the acts of eighteen hundred and twenty-eight, for the year eighteen hundred and thirty-three, sixteen hundred dollars.

To defray the costs of certain suits decided against the United States, as directed in the act of May twenty-sixth, eighteen hundred and twenty-eight, one thousand dollars.

For balance due to Lucius Lyon, commissioner appointed to ascertain and survey the northern boundary of the State of Illinois, per act of second March, eighteen hundred and thirty-one, one thousand and sixty-eight dollars and twelve cents.

For additional payment for the statue of Washington, five thousand dollars.

For payment of the balance found to be due on settlement at the Treasury to the legal representatives of John W. Smith, deceased, late special agent in relation to the sale of property in New Orleans, formerly belonging to Edward Livingston, nine hundred and ten dollars and twenty-four cents.

For survey of the coasts of the United States, thirty thousand dollars.

For the erection of the custom-house at New London, in the State of Connecticut, in addition to an unexpended balance of former appropriations, nine thousand dollars.

For the erection of the custom-house at Middletown, in the State of Connecticut, in addition to an unexpended balance of former appropriations, six thousand dollars.

For the erection of a custom-house at New Bedford, in the State of Massachusetts, in addition to an unexpended balance of former appropriations, eight thousand two hundred dollars.

For the erection of a custom-house at Newburyport, in the State of Massachusetts, in addition to an unexpended balance of former appropriations, eight thousand two hundred dollars.

For the erection of a public warehouse at Baltimore, in addition to an unexpended balance of former appropriations, twenty-three thousand dollars.

To construct a cistern on the custom-house lot at Key West, five hundred dollars.

To construct a brick wall to enclose the custom-house lot, and a small building connected with the wall, and for repairs to the custom-house at Providence, Rhode Island, one thousand dollars.

To construct a brick wall to enclose the custom-house lot at New Orleans, five thousand five hundred dollars.

To supply a deficiency in the contingent fund of the House of Representatives, twenty-five thousand dollars.

For completing the compilation of the laws of the Territory of Florida, two thousand five hundred dollars.

For compensation to Robert Mills, the architect employed by order of the House of Representatives to superintend the alterations in the Representatives Hall, according to the plan of said Mills, one thousand dollars.

For the repair and completion of the United States Marine Hospital in Charleston, South Carolina, one thousand one hundred dollars, to be placed at the disposal of the intendant and wardens of the said city of Charleston.

For pay and mileage of members of Congress and delegates, seventy thousand and eighty dollars, in addition to the appropriation made by act of the eleventh day of February, eighteen hundred and thirty-four.

To enable the directors of the Mint to procure the requisite apparatus for parting gold and silver by the sulphuric acid, and to establish a refinery for that purpose on the most approved principles, under the control of the institution, seven thousand dollars.

For payment of preparing, printing, and binding, the documents ordered to be printed by Gales & Seaton, forty thousand dollars, under the same restrictions and reservations as were contained in the appropriation for the same object by the act of the fifth day of May, eighteen hundred and thirty-two.

For payment for printing the documents relating to the public lands, ordered to be printed by the Senate of the United States, and for binding and engraving the necessary maps, forty-two thousand nine hundred and sixty dollars, to be disbursed by the Secretary of the Senate, whose accounts for the same shall be settled and adjusted at the Treasury in the usual manner.

For the contingent expenses of the Senate, in addition to the appropriation contained in the act of the eleventh day of February, eighteen hundred and thirty-four, forty-six thousand two hundred and ninety-four dollars; and for the contingent expenses of the House of Representatives, in addition to former appropriations, thirty-five thousand dollars.

To enable the Secretary of the Treasury to carry into effect th eact entitled "An act for the relief of certain insolvent debtors," approved the seventh day of June, eighteen hundred and thirty-four, five thousand dollars.

For payment of balance due the representatives of Samuel Babcock, on settlement of his accounts, one hundred and forty-six dollars, twenty-three cents.

For payment of balance due Gurdon Trumbull, superintendent of the public works at Stonington harbor, two hundred and sixty-two dollars, sixteen cents.

For payment of Major P. H. Perrault, balance due on account of the survey of the harbor of St. Augustine, two dollars and eighty-four cents.

For payment of balances due Joseph D. Selden, superintendent of the erection of a light-house at Buffalo and Erie, one thousand six hundred and ninety-seven dollars and sixty-two cents.

For payment of the arrearages due contractors on the Cumberland road in Ohio, one thousand six hundred and nine dollars, thirty-six cents.

For the expenses of a "Digest of the existing commercial regulations of foreign countries," now in preparation under a resolution of the House of Representatives of the third of March, eighteen hundred and thirty-one, the sum of five thousand and one hundred dollars.

Sec. 2. *And be it further enacted,* That the Secretary of the Treasury be, and he is hereby, authorized to pay to the collectors, naval officers, surveyors, and their respective clerks, together with the weighers of the several ports of the United States, out of any money in the Treasury not otherwise appropriated, such sums as will give to the said officers, respectively, the same compensation in the year one thousand eight hundred and thirty-four, according to the importations of that year, as they would have been entitled to receive if the act of the fourteenth of July, eighteen hundred and thirty-two, had not gone into effect; and that the clerks employed by the respective collectors, naval officers, and surveyors of the several ports, shall be paid for the year one thousand eight hundred and thirty-three, as if they had been specifically included in the third section of the act of the second of March, of said year, entitled "An act making appropriations for the civil and diplomatic expenses of Government for the year eighteen hundred and thirty-three:" *Provided, however,* That in no case shall the compensation of any other officers than collectors, naval officers, and surveyors, whether by salaries, fees, or otherwise, exceed the sum of two thousand dollars each, per annum; nor shall the union of any two or more of these offices in one person entitle him to receive more than the sum of two thousand five hundred dollars per annum: and provided, also, that no officer shall receive under this act a greater annual salary or compensation than was paid to such officer for the year one thousand eight hundred and thirty-two; provided, however, that the number of officers to be employed in any of the custom-houses shall not be augmented beyond those now in service; and provided, further, that the said collectors, naval officers, and surveyors, shall render an account quarterly to the Treasury, and the other officers, herein named or referred to, shall render an account quarterly to the respective collectors of the customs where they are employed, to be forwarded to the Treasury, of all the fees and emoluments whatever by them respectively received, and of all expenses incident to their respective offices, which accounts shall be rendered on oath or affirmation, and shall be in such form, and be supported by such proofs, to be prescribed by the Secretary of the Treasury, as will, in his judgment, best enforce the provisions of this section, and show its operation and effect.

Sec. 3. *And be it further enacted,* That no payment of the money, appropriated by this act, or any other act passed at the present session of Congress, shall be made in the note or notes of any bank which shall not be at par value at the place where such payment may be made, provided that nothing herein contained shall be construed to make any thing but gold and silver a tender in payment of any debt due from the United States to individuals.

Sec. 4. *And be it further enacted,* That the Secretary of the Senate be, and he hereby is, directed to pay, out of the fund appropriated by law for the pay of members of Congress, to Elisha R. Potter, of the State of Rhode Island, such compensation as is allowed by law to members of Congress, for his travel from his place of residence to the city of Washington, to claim a seat in the Senate, and for his return, and also the per diem compensation for the days he was in actual attendance at the seat of Government, from the commencement of the present session of Congress until the final decision by the Senate against his right to the seat so claimed by him.

Approved, June 27, 1834.

AN ACT concerning the gold coins of the United States, and for other purposes.

Be it enacted, &c., That the gold coins of the United States shall contain the following quantities of metal, that is to say: each eagle shall contain two hundred and thirty two grains of pure gold, and two hundred and fifty-eight grains of standard gold; each half eagle one hundred and sixteen grains of pure gold, and one hundred and twenty-nine grains of standard gold; each quarter eagle shall contain fifty-eight grains of pure gold, and sixty-four and a half grains of standard gold; every such eagle shall be of the value of ten dollars; every such half eagle shall be of the value of five dollars; and every such quarter eagle shall be of the value of two dollars and fifty cents; and the said gold coins shall be receivable in all payments, when of full weight, according to their respective values; and when of less than full weight, at less values, proportioned to their respective actual weights.

Sec. 2. *And be it further enacted,* That all standard gold or silver deposited for coinage after the thirty first of July next shall be paid for in coin, under the direction of the Secretary of the Treasury, within five days from the making of such deposite, deducting from the amount of said deposite of gold and silver one-half of one per centum: *Provided,* That no deduction shall be made unless said advance be required by such depositor within forty days.

Sec. 3. *And be it further enacted,* That all gold coins of the United States minted anterior to the thirty-first day of July next, shall be receivable in all payments, at the rate of ninety-four and eight-tenths of a cent per pennyweight.

Sec. 4. *And be it further enacted,* That the better to secure a conformity of the said gold coins to their respective standards as aforesaid, from every separate mass of standard gold which shall be made into coins at the said mint, there shall be taken, set apart by the Treasurer, and reserved in his custody, a certain number of pieces, not less than three, and that once in every year the pieces so set apart and reserved shall be assayed under the inspection of the officers, and at the time and in the manner now provided by law, and if it shall be found that the gold so assayed shall not be inferior to the said standard hereinbefore declared, more than one part in three hundred and eighty-four in fineness, and one part in five hundred in weight, the officer or officers of the said mint whom it may concern, shall be held excusable; but if any greater inferiority shall appear, it shall be certified to the President of the United States, and if he shall so decide, the said officer or officers shall be thereafter disqualified to hold their respective offices: *Provided,* That if, in making any delivery of coin at the mint in payment of a deposite, the weight thereof shall be found defective, the officer concerned shall be responsible to the owner for the full weight, if claimed at the time of delivery.

Sec. 5. *And be it further enacted,* That this act shall be in force from and after the thirty-first day of July, in the year one thousand eight hundred and thirty-four.

Approved, June 28, 1834.

AN ACT regulating the value of certain foreign gold coins within the United States.

Be it enacted, &c., That, from and after the thirty-first day of July next, the following gold coins shall pass as current as money within the United States, and be receivable in all payments, by weight, for the payment of all debts and demands, at the rates following, that is to say: the gold coins of Great Britain, Portugal, and Brazil, of not less than twenty-two carats fine, at the rate of ninety-four cents and eight-tenths of a cent per pennyweight; the gold coins of France nine-tenths fine, at the rate of ninety-three cents and one-tenth of a cent per pennyweight; and the gold coins of Spain, Mexico, and Colombia, of the fineness of twenty carats three grains and seven-sixteenths of a grain, at the rate of eighty-nine cents and nine-tenths of a cent per pennyweight.

Sec. 2. *And be it further enacted,* That it shall be the duty of the Secretary of the Treasury to cause assays of

the aforesaid gold coins, made current by this act, to be had at the mint of the United States, at least once in every year, and to make a report of the result thereof to Congress.

Approved, June 28, 1834.

AN ACT to authorize the removal of the custom-house from Magnolia to St. Mark's, in Florida.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to remove the custom-house, now established at Magnolia, on the St. Mark's river, in Florida, to the town of St. Mark's or some other point on St. Mark's harbor which may be deemed suitable, when in his judgment the public interests and convenience may require it, and after the removal aforesaid the office of surveyor at St. Mark's shall be abolished.

Approved, June 28, 1834.

AN ACT to attach the Territory of the United States west of the Mississippi river, and north of the State of Missouri, to the Territory of Michigan.

Be it enacted, &c., That all that part of the Territory of the United States bounded on the east by the Mississippi river, on the south by the State of Missouri, and a line drawn due west from the northwest corner of said State to the Missouri river; on the southwest and west by the Missouri river and the White Earth river, falling into the same; and on the north by the northern boundary of the United States, shall be, and hereby is, for the purpose of temporary government, attached to, and made a part of, the Territory of Michigan, and the inhabitants therein shall be entitled to the same privileges and immunities, and be subject to the same laws, rules, and regulations, in all respects, as the other citizens of Michigan Territory.

Approved, June 28, 1834.

AN ACT for the benefit of the City of Washington.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized to pay, out of any unappropriated money in the Treasury, a sum not exceeding seventy thousand dollars, in quarterly instalments, for one year from the passage of this act, to the Mayor of the city of Washington, to be applied, under the direction and authority of the Boards of Aldermen and Common Council, to extinguish so much of the interest annually accruing on their public debt.

Approved, June 28, 1834.

AN ACT to enable the President to make an arrangement with the Government of France in relation to certain French seamen killed or wounded at Toulon, and their families.

Whereas certain French seamen were unfortunately killed, and others wounded, by firing a salute from the American frigate United States, in the harbor of Toulon, on the first day of May last, and whereas it is proper to manifest the sensibility with which the disastrous accident is viewed by the Government of the United States, therefore,

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized and empowered to enter into an arrangement with the Government of France for the payment of an annual sum of twice the amount receivable by the navy pensioners of the same or a similar class to the wounded who survive, and to such relatives of those who were unhappily killed as aforesaid, as the President may deem it expedient to include in this provision, which said sum shall be paid on the earliest day practicable after the proposed arrangement shall be concluded, and on the same day in each year thereafter, during the respective lives of the persons to whom granted.

Sec. 2. *And be it further enacted*, That a sum of money sufficient to enable the President to carry the aforesaid arrangement into effect be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, June 28, 1834.

AN ACT to authorize the correction of erroneous selections of land granted to the State of Indiana, for the purpose of constructing the Michigan road.

Be it enacted, &c., That the State of Indiana be, and hereby is, authorized to select other lands in lieu of sections numbered eighteen and twenty-nine, and fractional section numbered thirty-two, in township thirty-seven, north, of range one, east, heretofore selected, to be applied to the purpose of constructing the Michigan road in Indiana; the selections authorized by this act to be made on any unsold land within the district where the above-mentioned lands lie, and shall be applied to the same object, and the first-named selections are hereby declared void and of no effect.

Approved, June 28, 1834.

AN ACT limiting the times of advertising the sales of the Public Lands.

Be it enacted, &c., That hereafter the public lands which shall be exposed to public sale by order of the President of the United States, shall be advertised for a period of not less than three nor more than six months prior to the day of sale, any thing in any law heretofore enacted to the contrary notwithstanding.

Approved, June 28, 1834.

AN ACT making additional appropriations for certain harbors, and removing obstructions in the mouths of certain rivers, for the year one thousand eight hundred and thirty-four.

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, to be paid out of any unappropriated money in the Treasury, for carrying on and completing certain works heretofore commenced, viz:

For piers at the entrance of Kennebunk river, ten thousand three hundred dollars.

For the breakwater at the mouth of Merrimack river, three thousand eight hundred and sixty dollars.

For the preservation of Plymouth beach, two thousand dollars.

For the preservation of the beach at Provincetown harbor, Massachusetts, four thousand four hundred dollars.

For the breakwater at Hyannis harbor, Massachusetts, ten thousand dollars.

For improving the harbors of Newcastle, Marcus Hook, Chester, and Port Penn, in the Delaware river, six thousand one hundred and thirty-three dollars.

For carrying on the improvements of Ocracock inlet, North Carolina, fifteen thousand dollars.

For improving Cape Fear river below Wilmington, North Carolina, five thousand two hundred and thirty-four dollars.

For improving the navigation of the Ohio, Missouri, and Mississippi rivers, fifty thousand dollars.

For completing the improvement of St. Mark's river and harbor, Florida, four thousand six hundred dollars.

For improving the harbor of Chicago, Illinois, thirty-two thousand eight hundred and one dollars.

For the piers at La Plaisance bay, Michigan, four thousand eight hundred and ninety-five dollars.

For improving the navigation of Red river, fifty thousand dollars.

For carrying on the Delaware breakwater, two hundred and seventy thousand dollars.

For filling up and securing a breach in the south embankment at Presqu' Isle, Pennsylvania, three thousand and forty-five dollars.

For improving the harbor at Mobile, in removing the bar at the entrance of the harbor, called Choctaw pass, ten thousand dollars.

For improving the navigation of the river Savannah, in removing the obstructions in said river from the city of Savannah to its mouth, thirty thousand dollars.

For continuing and securing the works at Oswego harbor, New York, thirty thousand dollars.

For continuing the improvements at Big Sodus bay, New York, on the present plan, fifteen thousand dollars.

For completing the works at Genesee river, New York, on the present plan, twenty thousand dollars.

For continuing the improvements of Black Rock harbor, New York, twelve thousand dollars.

For completing the works at Buffalo, New York, twenty thousand dollars.

For continuing the improvements at Dunkirk harbor, New York, four thousand dollars.

For securing the works at Presqu' Isle, Pennsylvania, twenty thousand dollars.

For completing and securing the works at Cleveland harbor, Ohio, thirteen thousand three hundred and fifteen dollars.

For repairing and securing the works at Grand river, Ohio, ten thousand dollars.

For securing the works at Black river, Ohio, five thousand dollars.

For extending and securing the works at Huron river, Ohio, six thousand seven hundred dollars.

For continuing the improvements at Ashtabula creek, Ohio, five thousand dollars.

And for defraying the expense of surveys, pursuant to the act of the thirtieth of April, eighteen hundred and twenty-four, including arrearages for eighteen hundred and thirty-three, twenty-nine thousand dollars; of which sum five thousand dollars shall be appropriated and applied to geological and mineralogical survey and researches.

To rebuild the monument on Steel's ledge, in Penobscot bay, four thousand six hundred dollars.

For the continuation of the improvement of the navigation of the Cumberland river, thirty thousand dollars, to be expended under the direction of the War Department.

Approved, June 28, 1834.

AN ACT making appropriations for the Military Academy of the United States, for the year one thousand eight hundred and thirty-four.

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, to be paid out of any unappropriated money in the Treasury:

For defraying the expenses of the board of visiters at West Point, two thousand dollars.

For fuel, forage, stationary, printing, transportation, and postage, eight thousand four hundred and eighty-six dollars and thirty cents.

For repairs, improvements, and expenses of buildings, grounds, roads, wharves, boats, carts, and fences, nine thousand six hundred and ten dollars and ninety-six cents.

For pay of adjutant's and quartermaster's clerks, nine hundred dollars.

For philosophical apparatus and repairs of the same, six hundred and ninety-eight dollars.

For models for the department of engineering, eight hundred dollars.

For models for the drawing department, apparatus and contingencies for the department of chemistry, and repairs of instruments for the mathematical department, one thousand one hundred and seventeen dollars.

For the departments of mineralogy, artillery, and sword exercises, one thousand one hundred and thirty dollars.

For increase and expenses of the library, one thousand two hundred and sixteen dollars and twenty-two cents.

For completing the out buildings and culvert attached to the cadet barracks, one thousand and eighty-one dollars and fifty cents.

For miscellaneous items and incidental expenses of the Military Academy, one thousand six hundred and seventy-one dollars and forty-seven cents.

For the erection of a building for military and other exercises in winter, in addition to six thousand dollars appropriated last session, fourteen thousand dollars.

For pay of the officers, cadets, and musicians, and subsistence of officers and cadets, ninety-five thousand six hundred and ninety-eight dollars.

For forage of officers, one thousand one hundred and fifty-two dollars.

For clothing for servants of officers, three hundred and thirty dollars.

SEC. 2. *And be it further enacted,* That the Secretary of War be, and is hereby, authorized to cause such transfers to be made, from specific heads of appropriation for the Military Academy, as may be necessary to enable the accounting officer to settle the accounts of Lieutenant Colonel S. Thayer, late superintendent, for expenses incurred in procuring philosophical apparatus for said academy, under an order of the War Department, in eighteen hundred and twenty-nine.

Approved, June 28, 1834.

AN ACT making appropriations to carry into effect certain Indian treaties, and for other purposes.

Be it enacted, &c., That the following sums be, and are hereby, appropriated, for the objects hereinafter mentioned, to be paid out of any moneys in the Treasury not otherwise appropriated, viz:

To carry into effect the stipulations of the treaty with the Seminoles, of the ninth May, eighteen hundred and thirty-two, viz:

To pay for improvements relinquished to the United States by the first article, fifteen thousand four hundred dollars.

To defray the expense of investigating claims against the Seminoles for property alleged to have been stolen or destroyed by them, and of liquidating such as may be satisfactorily established, seven thousand eight hundred dollars.

To carry into effect the treaty with the Western Cherokees, of fourteenth February, eighteen hundred and thirty-three, viz:

For support of blacksmiths, of a wheelwright and waggon maker, and their establishments, and the purchase of corn mills, under the fourth article, eight thousand three hundred and twenty dollars.

To carry into effect the treaty with the Western Creeks, of fourteenth February, eighteen hundred and thirty-three, viz:

For support of a blacksmith, wheelwright or waggon maker, and their establishments, and for the purchase of saws and corn mills, under the fifth article, three thousand three hundred and sixteen dollars.

For education, one thousand dollars.

To pay for improvements abandoned, under the sixth article, three thousand eight hundred and one dollars and fifty-eight cents.

To pay the expense of appraising these improvements, five hundred dollars.

To carry into effect the treaty with the Quapaws, of thirteenth May, eighteen hundred and thirty-three, viz:

To pay for stock, implements of agriculture, rifles, blankets, and other articles stipulated to be furnished in

the third article, five thousand and eighty-eight dollars and fifty cents.

For support of a farmer, six hundred dollars.

For education, one thousand dollars.

For support of a blacksmith and his establishment, one thousand and seventy-five dollars.

For payment of debts of the Quapaws, under the fourth article, four thousand one hundred and eighty dollars.

For pay of laborers, one thousand dollars.

For payment of the limited annuity, two thousand dollars.

For pay of an interpreter, by the sixth article, three hundred dollars.

To carry into effect the treaties with the Appalachicolas, of eighteenth June, eighteen hundred and thirty-three, viz:

For payment of reservations to be surrendered, under the fourth article of each of the treaties, six thousand dollars.

To carry into effect the treaties with the Ottoes and Missourias, of twenty-first September, eighteen hundred and thirty-three, viz:

For education, under the fourth article, five hundred dollars.

For support of farmers and the erection of a mill, under the fifth article, one thousand four hundred and fifty dollars.

For purchase of stock, under the sixth article, one thousand dollars.

For payment for merchandise, under the ninth article, four hundred dollars.

To carry into effect the treaty with the Pawnees, of ninth October, eighteen hundred and thirty-three, viz:

For payment of the annuity provided for in third article, four thousand six hundred dollars.

For purchase of agricultural implements, under the fourth article, two thousand dollars.

For education, under the fifth article, one thousand dollars.

For support of blacksmiths and their establishments, under the sixth article, two thousand dollars.

For the support of farmers, under the seventh article, two thousand four hundred dollars.

For the purchase of stock, four thousand dollars.

For the erection of mills, under the eighth article, one thousand dollars.

For the purchase of guns and ammunition, under the twelfth article, one thousand four hundred and twenty-two dollars.

For payment for merchandise, under the thirteenth article, one thousand six hundred dollars.

For payment of transportation and other incidental expenses, under the above treaties, two thousand dollars.

To survey and lay off the lands of the Senecas and Shawnees, under the second article of the treaty of twentieth July, eighteen hundred and thirty-one, and of the Quapaws, under the third article of the treaty of thirteenth May, eighteen hundred and thirty-three, twelve hundred dollars.

To survey and lay off the reservation provided for in the second article of the treaty with the Sacs and Foxes, of twenty-first of September, eighteen hundred and thirty-two, eight hundred dollars.

To lay off and divide the lands of the Sac and Fox half-breeds, under the first article of the treaty of fourth August, eighteen hundred and twenty-four, one thousand dollars.

To complete the surveys of the Kickapoo reservations, under the twelfth article of the treaty of twenty-fourth October, eighteen hundred and thirty-two, eight hundred dollars.

To complete the north line of the Osage reservation, under the second article of the treaty of second June, eighteen hundred and twenty-five, one thousand dollars.

To complete the north line of the Kanzas reservation, under the second article of the treaty of third June, eighteen hundred and twenty-five, one thousand dollars.

To cover the excess of expenditure over the appropriation for running the line under the treaty with the Sacs and Foxes, and others, of fifteenth July, eighteen hundred and thirty, two thousand two hundred and seventeen dollars and sixty-one cents.

To locate reservations under the fifth article of the treaty with the Winnebagoes of first August, eighteen hundred and twenty-nine, four hundred dollars.

To defray the expense of locating reservations, under the treaty with the Choctaws of twenty-seventh September, eighteen hundred and thirty, three thousand five hundred dollars.

To pay for improvements relinquished by the Chippewas, under the sixth article of the treaty of twenty-fourth September, eighteen hundred and nineteen, one thousand seven hundred and seventy-six dollars.

To pay for improvements relinquished by the Cherokees who have emigrated, under the eighth article of the treaty of the sixth May; eighteen hundred and twenty-eight, one hundred and thirty-nine thousand four hundred and eighteen dollars and fifty cents.

For the balance of the expenses of the Chickasaws, who explored the country west of the Mississippi, in eighteen hundred and thirty, and eighteen hundred and thirty-one, two thousand four hundred and twenty-six dollars and fifty-six cents.

To pay expenses incurred by the Indian agent at Prairie du Chien, in collecting Indians to attend the treaties at Rock island, in eighteen hundred and thirty-two, and in effecting the capture of Black Hawk and the Prophet, six hundred and twelve dollars and seventy-four cents.

To pay the expenses of a delegation of New York Indians in exploring the country west of the Mississippi, four thousand five hundred dollars.

To pay for three thousand and fifty bushels of corn for the Choctaws, "who were suffering for want of food," three thousand six hundred and ninety dollars.

To pay for one thousand bushels of corn, purchased for the relief of the Osages, one thousand dollars.

To pay balances ascertained to be due by the Second Auditor for capitation money, provisions, &c., under the treaty of twenty-fourth January, eighteen hundred and twenty-six, with the Creeks, nine thousand seven hundred and seventy dollars and twelve cents.

To compensate the Western Cherokees for stock and other property lost during their emigration, under the eighth article of the treaty of sixth May, eighteen hundred and twenty-eight, fourteen thousand three hundred and sixty-four dollars and fifty cents.

To remunerate the Western Cherokees for spoliations on their property, under the fifth article of the treaty of sixth May, eighteen hundred and twenty-eight, one thousand and forty-three dollars.

To defray expenses incurred in holding treaties with the Pawnees, Ottoes, and Missourias, and the general treaty of peace, and councils with the Osages and Kickapoos, six thousand two hundred and sixteen dollars.

That the Secretary of War ascertain the amount paid by Joseph M. Street and Stephen W. Kearney, for attorney fees in defending a suit or suits brought against them for acts done in performance of their official duties by Jean Brunette, not to exceed four hundred and fifty dollars, to be paid out of any money in the Treasury not otherwise appropriated.

For expense of surveys and marking certain lines in the Creek and Cherokee country, by order of the commissioners, under the treaties with said tribes of Indians of the fourteenth of February, eighteen hundred and thirty-three, sixty-two dollars and fifty cents.

For improvements abandoned on ceded lands, under the

treaty with the Cherokee Indians of the eighth of July, eighteen hundred and seventeen, five hundred dollars.

For refunding to Colonel Pierre Minard six hundred and eighty-one dollars eighty-two cents, for that sum advanced by him to the commissioners for holding treaties with the Winnebagoes, Chippewas, Ottoways, and Potawatimies.

For expenses of thirteen delegates from the Eastern Cherokees, five thousand six hundred dollars.

For the expenses of five delegates from the Western Cherokees, two thousaud six hundred dollars.

For the purchase of a house and lot at Prairie du Chien, for the use of the agency at that place, two thousand five hundred dollars.

Approved, June 28, 1834.

AN ACT further to provide for the location of certain land in the Territory of Arkansas.

Be it enacted, &c., That the proviso to the act entitled "An act to extend the time for locating certain donations in Arkansas," approved the thirteenth day of January, eighteen hundred and thirty, be, and the same is hereby, repealed; and all locations of said claims, made or to be made, shall in no wise be affected by said proviso.

Approved, June 28, 1834.

AN ACT in reference to pre-emption rights in the southeastern district of Louisiana.

Be it enacted, &c., That the pre-emption rights granted by the register and receiver of the land office at New Orleans, to certain individuals claiming the same, in the southeastern land district of Louisiana, under the act of Congress approved fifth April, eighteen hundred and thirty-two, entitled "An act supplementary to the several laws for the sale of public lands," and the act approved fifteenth June, eighteen hundred and thirty-two, entitled "An act to authorize the inhabitants of the State of Louisiana to enter the back lands," be, and they are hereby, confirmed; and the register of the land office is hereby directed to issue patent certificates accordingly.

Sec. 2. *And be it further enacted*, That the resurvey made under the supervision of the surveyor general of Louisiana, of certain lands on the bayou St. Vincent, in sections designated as numbers one hundred and ten and one hundred and forty-three, in township thirteen of range fourteen east, situate in the southeastern district of Louisiana, and which resurvey purports to include the improvements of the actual settlers within its limits, claiming the right of pre-emption thereto, under the act of fifth April, eighteen hundred and thirty-two, aforesaid, be, and the same is hereby, confirmed; and payments may be made and patents issued in accordance therewith.

Approved, June 28, 1834.

AN ACT giving the consent of Congress to an agreement or compact entered into between the State of New York and the State of New Jersey, respecting the territorial limits and jurisdiction of said States.

Whereas commissioners duly appointed on the part of the State of New York, and commissioners duly appointed on the part of the State of New Jersey, for the purpose of agreeing upon and settling the jurisdiction and territorial limits of the two States, have executed certain articles, which are contained in the words following, viz:

Agreement made and entered into by and between Benjamin F. Butler, Peter Augustus Jay, and Henry Seymour, commissioners duly appointed on the part and behalf of the State of New York, in pursuance of an act of the Legislature of the said State, entitled "An act concerning the territorial limits and jurisdiction of the State of New York and the State of New Jersey," passed January 18th, 1833, of the one part; and Theodore Frelinghuysen, and James Parker, and Lucius Q. C. Elmer, commissioners duly appointed on the part and behalf of the State of New Jersey, in pursuance of an act of the Legislature of the said State, entitled "An act for the settlement of the territorial limits and jurisdiction between the States of New Jersey and New York," passed February 6th, 1833, of the other part.

Art. 1. The boundary line between the two States of New York and New Jersey, from a point in the middle of Hudson river, opposite the point on the west shore thereof in the forty-first degree of north latitude as heretofore ascertained and marked, to the main sea, shall be the middle of the said river, of the bay of New York, of the waters between Staten island and New Jersey, and of Raritan bay, to the main sea; except as hereinafter otherwise particularly mentioned.

Art. 2. The State of New York shall retain its present jurisdiction of and over Bedlow's and Ellis's island; and shall also retain exclusive jurisdiction of and over the other islands lying in the waters above mentioned and now under the jurisdiction of that State.

Art. 3. The State of New York shall have and enjoy exclusive jurisdiction of and over all the waters of the bay of New York; and of and over all the waters of Hudson river lying west of Manhattan island and to the south of the mouth of Spuytenduyvel creek; and of and over the lands covered by the said waters to the low water mark on the westerly or New Jersey side thereof; subject to the following rights of property and of jurisdiction of the State of New Jersey; that is to say:

1. The State of New Jersey shall have the exclusive right of property in and to the land under water lying west of the middle of the bay of New York, and west of the middle of that part of the Hudson river which lies between Manhattan island and New Jersey.

2. The State of New Jersey shall have the exclusive jurisdiction of and over the wharves, docks and improvements, made and to be made on the shore of the said State; and of and over all vessels aground on said shore, or fastened to any such wharf or dock; except that the said vessels shall be subject to the quarantine or health laws, and laws in relation to passengers, of the State of New York, which now exist or which may hereafter be passed.

3. The State of New Jersey shall have the exclusive right of regulating the fisheries on the westerly side of the middle of the said waters: *Provided*, That the navigation be not obstructed or hindered.

Art. 4. The State of New York shall have exclusive jurisdiction of and over the waters of the Kill Van Kull, between Staten island and New Jersey, to the westernmost end of Shooter's island, in respect to such quarantine laws and laws relating to passengers, as now exist or may hereafter be passed under the authority of that State, and for executing the same; and the said State shall also have exclusive jurisdiction, for the like purposes, of and over the waters of the sound, from the westernmost end of Shooter's island to Woodbridge creek, as to all vessels bound to any port in the said State of New York.

Art. 5. The State of New Jersey shall have and enjoy exclusive jurisdiction of and over all the waters of the sound, between Staten island and New Jersey, lying south of Woodbridge creek, and of and over all the waters of Raritan bay lying westward of a line drawn from the light-house at Prince's bay to the mouth of Mattavan creek; subject to the following rights of property and of jurisdiction of the State of New York; that is to say:

1. The State of New York shall have the exclusive right of property in and to the land under water lying between the middle of the said waters and Staten island.

2. The State of New York shall have the exclusive jurisdiction of and over the wharves, docks and improvements made and to be made on the shore of Staten island, and of and over all vessels aground on said shore, or fastened to any such wharf or dock; except that the said

vessels shall be subject to the quarantine or health laws, and laws in relation to passengers, of the State of New Jersey, which now exist or which may hereafter be passed.

3. The State of New York shall have the exclusive right of regulating the fisheries between the shore of Staten island and the middle of the said waters; *Provided*, That the navigation of the said waters be not obstructed or hindered.

Art. 6. Criminal process; under the authority of the State of New Jersey, against any person accused of an offence committed within that State; or committed on board of any vessel being under the exclusive jurisdiction of that State as aforesaid; or committed against the regulations made or to be made by that State in relation to the fisheries mentioned in the third article; and also civil process, issued under the authority of the State of New Jersey, against any person domiciled in that State, or against property taken out of that State to evade the laws thereof; may be served upon any of the said waters within the exclusive jurisdiction of the State of New York, unless such person or property shall be on board a vessel aground upon, or fastened to, the shore of the State of New York, or fastened to a wharf adjoining thereto, or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the State of New York.

Art. 7. Criminal process, issued under the authority of the State of New York, against any person accused of an offence committed within that State; or committed on board of any vessel being under the exclusive jurisdiction of that State as aforesaid; or committed against the regulations made or to be made by that State in relation to the fisheries mentioned in the fifth article; and also civil process, issued under the authority of the State of New York, against any person domiciled in that State, or against property taken out of that State to evade the laws thereof, may be served upon any of the said waters within the exclusive jurisdiction of the State of New Jersey, unless such person or property shall be on board a vessel aground upon, or fastened to, the shore of the State of New Jersey, or fastened to a wharf adjoining thereto, or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the State of New Jersey.

Art. 8. This agreement shall become binding on the two States when confirmed by the Legislatures thereof, respectively, and when approved by the Congress of the United States.

Done in four parts, (two of which are retained by the commissioners of New York, to be delivered to the Governor of that State, and the other two of which are retained by the commissioners of New Jersey, to be delivered to the Governor of that State,) at the city of New York, this sixteenth day of September, in the year of our Lord one thousand eight hundred and thirty-three, and of the independence of the United States the fifty-eighth.

B. F. BUTLER,
PETER AUGUSTUS JAY,
HENRY SEYMOUR,
THEO. FRELINGHUYSEN,
JAMES PARKER,
LUCIUS Q. C. ELMER.

And whereas the said agreement has been confirmed by the Legislatures of the said States of New York and New Jersey, respectively, Therefore,

Be it enacted, &c., That the consent of the Congress of the United States is hereby given to the said agreement, and to each and every part and article thereof: *Provided*, That nothing therein contained shall be construed to impair or in any manner affect, any right of jurisdiction of the United States in and over the islands or waters which form the subject of the said agreement.

Approved, June 28, 1834.

AN ACT to amend an act entitled "An act to annex a part of the State of New Jersey to the collection district of New York; to remove the office of collector of Niagara to Lewistown; to make Cape St. Vincent, in the district of Sackett's Harbor, a port of delivery; and out of the districts of Miami and Mississippi, to make two new districts, to be called the districts of Sandusky and Teche, and for other purposes."

Be it enacted, &c., That there shall be paid, annually, to the collector of the port of Franklin, in the district of Teche, in lieu of all demands against the Government of the United States for house-rent, storage, and so forth, the sum of two hundred and fifty dollars.

Approved, June 30, 1834.

AN ACT to enable the Secretary of State to purchase the papers and books of General Washington.

Be it enacted, &c., That the sum of twenty-five thousand dollars be, and the same is hereby, appropriated, to be paid out of any [money] in the Treasury not otherwise appropriated, to enable the Secretary of State to purchase the manuscript papers and a portion of the printed books of General George Washington; the said papers and books to be deposited and preserved in the Department of State, under the regulations the Secretary shall prescribe.

Approved, June 30, 1834.

AN ACT authorizing to President of the United States to cause certain roads to be opened in Arkansas.

Be it enacted, &c., That the sum of ten thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enable the President of the United States to cause a road to be opened from Helena, in Arkansas Territory, to the mouth of Cache river; also, a road leading from Jackson, in the county of Lawrence, by Liberty and Fayetteville, in the county of Washington, in the aforesaid Territory, to Fort Smith: *And, also*, That the sum of seven thousand dollars be, and the same is hereby, appropriated, for the purpose of locating and constructing a road from Strong's (a point on the military road from Memphis to Little Rock) by Letchfield, in Jackson county, to Batesville, in the Territory of Arkansas.

Approved, June 30, 1834.

AN ACT to suspend the operations of certain provisoes of "An act to alter and amend the several acts imposing duties on imports," approved the fourteenth day of July, eighteen hundred and thirty-two.

Be it enacted, &c., That the provisoes of the tenth and twelfth clauses of the second section of the act to alter and amend the several acts imposing duties on imports, passed July fourteenth, eighteen hundred and thirty-two, be, and the same are hereby, suspended until the third day of March next. And, in the mean time, that the Secretary of the Treasury be directed to inquire whether it be necessary to except any manufactured articles from the operation and effect of those provisoes, by reason of the difficulty of ascertaining the duties chargeable upon such articles, and that he make report to Congress, at the commencement of the next session.

Approved, June 30, 1834.

AN ACT for the better organization of the United States "Marine Corps."

Be it enacted, &c., That, from and after the passage of this act, the marine corps shall consist of the following officers, non-commissioned officers, musicians, and privates, viz: one colonel commandant, one lieutenant colonel, four majors, thirteen captains, twenty first lieuten-

ants, twenty second lieutenants, one adjutant and inspector, one paymaster, one quartermaster, one assistant quartermaster, one sergeant major, one quartermaster sergeant, one drum major, one fife major, eight sergeants, eighty corporals, thirty drummers, thirty fifers, and one thousand privates.

Sec. 2. *And be it further enacted,* That the said corps shall, at all times, be subject to, and under the laws and regulations which are, or may hereafter be, established for the better government of the navy, except when detached for service with the army by order of the President of the United States.

Sec. 3. *And be it further enacted,* That the officers, non-commissioned officers, musicians, and privates, shall take the oath prescribed by law, and that all enlistments shall be for the term of four years, during which period marines so enlisted shall be, and are hereby, exempt from all personal arrest for debt or contract.

Sec. 4. *And be it further enacted,* That the officers of the marine corps shall be, in relation to rank, on the same footing as officers of similar grades in the army: *Provided,* That no officer of the marine corps shall exercise command over any navy yard or vessel of the United States.

Sec. 5. *And be it further enacted,* That the officers of the marine corps shall be entitled to, and receive, the same pay, emoluments, and allowances, as are now, or may hereafter be, allowed to officers of similar grades in the infantry of the army, except the adjutant and inspector, who shall be entitled to the same pay, emoluments, and allowances, as are received by the paymaster of said corps; and the non-commissioned officers, musicians, and privates, shall be entitled to the same pay, rations, clothing, and allowances, as they now receive.

Sec. 6. *And be it further enacted,* That the staff of said corps shall be taken from the captains or subalterns of the corps.

Sec. 7. *And be it further enacted,* That the commissions of the officers now in the marine corps shall not be vacated by this act, and that the President of the United States may, during the recess of the Senate, first by promotions according to rank, and then by selections, appoint the officers hereby authorized, which appointments shall be submitted to the Senate, at their next session, for their advice and consent.

Sec. 8. *And be it further enacted,* That the President be, and he is hereby, authorized to prescribe such military regulations for the discipline of the marine corps, as he may, in his judgment, deem expedient.

Sec. 9. *And be it further enacted,* That so much of the fourth section of an act, passed the sixth day of July, in the year one thousand eight hundred and twelve, entitled "An act making further provision for the army of the United States, and for other purposes," or of any other act as authorizes the President to confer brevet rank on such officers of the army or of the marine corps, as shall have served ten years in any one grade, shall be, and the same hereby is, repealed; and so much of the second section of an act passed the sixteenth of April, one thousand eight hundred and eighteen, entitled "An act regulating the pay and emoluments of brevet officers," as may be applicable to the clause herein above repealed, shall be, and the same hereby is, also repealed: *Provided,* Nothing herein shall effect any right already acquired by ten years' expired service to brevet rank.

Sec. 10. *And be it further enacted,* That all acts or parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

Approved, June 30, 1834.

AN ACT to increase and regulate the pay of the surgeons and assistant surgeons of the army.

Be it enacted, &c., That, from and after the passing of this act, no person shall receive the appointment of assistant surgeon in the army of the United States, unless he shall have been examined and approved by an army medical board, to consist of not less than three surgeons or assistant surgeons, who shall be designated for that purpose by the Secretary of War; and no person shall receive the appointment of surgeon in the army of the United States, unless he shall have served at least five years as an assistant surgeon, and unless, also, he shall have been examined by an army medical board, constituted as aforesaid.

Sec. 2. *And be it further enacted,* That the surgeons in the army of the United States shall be entitled to receive the pay and emoluments of a major; and the assistant surgeons, who shall have served five years, shall be entitled to receive the pay and emoluments of a captain; and those who shall have served less than five years the pay and emoluments of a first lieutenant; and that said assistant surgeons shall be entitled to receive the same allowance for forage as they are at present entitled to.

Sec. 3. *And be it further enacted,* That every surgeon and assistant surgeon, who shall have served faithfully ten years in these grades, respectively, shall be entitled to receive an increase of rations, per day, equal to the number of rations to which he may be entitled under this act.

Approved, June 30, 1834.

AN ACT concerning naval pensions and the navy pension fund.

Be it enacted, &c., That all the provisions and benefits of the act of the twenty-eighth of June, one thousand eight hundred and thirty-two, entitled "An act further to extend the pension heretofore granted to the widows of persons killed, and who died in the naval service," be continued for another term of five years to all those widows who have heretofore had the benefit of the same, and the same are hereby also extended to the widows of officers, seamen, and marines, who have died in the naval service since the first day of January, one thousand eight hundred and twenty-four, or who may die in said service, by reason of disease contracted, or of casualties by drowning or otherwise, or of injuries received while in the line of their duty, and the pensions of such widows shall commence from the passage of this act: *Provided,* That every pension hereby granted shall cease on the death or marriage of such widow.

Sec. 2. *And be it further enacted,* That there be reimbursed to the navy pension fund, out of any money in the Treasury not otherwise appropriated, the cost of the stock of the Bank of Columbia, heretofore purchased by the commissioners of the said fund, and which now remains unredeemed by the said bank, together with interest thereon from the period at which the said bank ceased to pay interest to the time of the reimbursement, herein directed to be made; and at the period of said reimbursement, the said stock shall be transferred by the Secretary of the Navy to the Treasurer of the United States.

Approved, June 30, 1834.

AN ACT to establish a port of entry at Natchez, in Mississippi, and creating certain ports of delivery, and for other purposes.

Be it enacted, &c., That all the ports, harbors, shores and waters of the Mississippi river, within the State of Mississippi, be, and they are hereby, constituted a collection district, by the name of the Natchez district, and a port of entry shall be established at Natchez for said district, and a collector shall be appointed, who shall give the usual bond required of such officers, and be entitled to a salary of five hundred dollars per annum.

Sec. 2. *And be it further enacted,* That all vessels pro-

ceeding to the said port of Natchez, from any port or place in foreign countries, shall stop and report her arrival at the port of New Orleans; and before such vessel shall proceed on her voyage to the said port of Natchez, it shall be the duty of the collector of the said port of New Orleans to order on board any such vessel a custom-house officer, who shall remain on board such vessel until her arrival at the said port of Natchez; and it shall be the duty of such custom-house officer to take possession and safely keep all the papers belonging to such vessel, having relation to the freight or cargo on board, which papers he shall deliver to the collector of the port of Natchez, immediately after his arrival at that port; and any such vessel, which shall depart from the said port of New Orleans without such custom-house officer on board, shall be subjected to all the pains and penalties provided for by law for a violation of the revenue laws of the United States.

Sec. 3. *And be it further enacted,* That the expenses of the custom-house officer which may be put on board of any such vessel at New Orleans, from the time of his being put on board, until his return to New Orleans, shall be, paid by the owner or owners of such vessel.

Sec. 4. *And be it further enacted,* That Dorchester, in the State of Massachusetts, be, and the same is hereby, declared to be a port of delivery.

Sec. 5. *And be it further enacted,* That, from and after the passage of this act, the port of entry and delivery for the district of Philadelphia shall be bounded by the navy yard on the south, and Gunner's run on the north; any thing in any former law to the contrary notwithstanding.

Sec. 6. *And be it further enacted,* That the town of Camden, in the district of Bridgeton, in the State of New Jersey, shall be a port of delivery, and shall be subject to the same regulations and restrictions as other ports of delivery in the United States; and there shall be appointed a sureyor of the customs to reside at said port, who shall also perform the duties of an inspeetor, and who shall be entitled to receive the annual salary of one thousand dollars, and no more.

Sec. 7. *And be it further enacted.* That the surveyor of the port of Camden shall be authorized to enrol and license ships or vessels to be employed in the coasting trade and fisheries, under the regulations and provisions of the act entitled "An act to authorize surveyors, under the direction of the Secretary of the Treasury, to enrol and license ships and vessels to be employed in the coasting trade and fisheries," passed the eleventh day of February, eighteen hundred and thirty, as to all ships and vessels belonging to that part of the district of Bridgeton which lies northward of Alloway's creek, in the county of Salem.

Sec. 8. *And be it further enacted,* That all the waters, shores, inlets and harbors of Lake Michigan, lying south of a point fifty miles north of the mouth of Grand river, on the east side, and the like distance north of the mouth of the Milwauke river, on the west side of said lake, shall be, and hereby are, attached to, and made a part of, the collection district of Detroit, in the Territory of Michigan, any law to the contrary notwithstanding.

Sec. 9. *And be it further enacted,* That, from and after the thirtieth day of September next, all that part of the State of New Jersey lying north and east of Elizabethtown and Staten Island, extending eastward as far as the mouth of the Kill Van Kull, where it empties into the bay of New York, with all the waters of the Passaick and Hackensack rivers, shall form a collection district, to be called the district of Newark, of which the town of Newark shall be the port of entry.

Sec. 10. *And be it further enacted,* That a collector for the said district shall be appointed, to reside at Newark, who shall give bond with security, as provided by law, for the true and faithful performance of the duties of his office, in the sum of five thousand dollars, and shall be allowed three per centum on all moneys received on account of the duties arising on goods, wares, and merchandise imported, and on the tonnage of ships and vessels; and the said collector shall also receive, in addition to his other fees and emoluments allowed by law, the annual sum two hundred and fifty dollars, subject, however, to the limitations provided by law.

Sec. 11. *And be it further enacted,* That the President of the United States be, and he hereby is, authorized to remove the seat of the custom-house of the district of Frenchman's Bay, in the State of Maine, from its present situation to the town of Ellsworth, in said district.

Approved, June 30, 1834.

AN ACT for the repair of the Mars Hill military road, in the State of Maine.

Be it enacted, &c., That the sum of six thousand dollars be, and the same is hereby, appropriated for the repair of Mars Hill military road, in the State of Maine, which sum shall be paid out of any money in the Treasury not otherwise appropriated; the State of Maine having, by a resolve, approved the eighth day of March, eighteen hundred and thirty-four, agreed to assume the preservation and repair from and after the first day of January, eighteen hundred and thirty-five, on condition that the said road shall be put in a state of repair by the United States prior to the first day of January aforesaid: *Provided,* That no toll shall be received or collected for the passage of any wagon or carriage, laden with the property of the United States, or any cannon or military stores belonging to the United States, or to any of the States composing this Union.

Approved, June 30, 1834.

AN ACT authorizing the selection of certain Wabash and Erie canal lands, in the State of Ohio.

Be it enacted, &c., That in lieu of lands sold or otherwise disposed of by the United States, within the State of Ohio, and which would otherwise become the property of the State of Indiana, in virtue of "An act to grant a certain quantity of land to the State of Indiana, for the purpose of aiding such State in opening a canal to connect the waters of the Wabash river with those of Lake Erie," approved March second, eighteen hundred and twenty-seven, the canal commissioners authorized to locate the lands granted as aforesaid for the use of the canal within the State of Ohio, be, and they are hereby, authorized to select an equal quantity from the alternate sections, which would otherwise belong to the United States in the division under said act, or from the lands recently acquired by purchase from the Indians, or from other lands in the neighborhood near the line of said canal, as they shall think proper; and the lands thus selected shall be vested and disposed of for the use of the canal, as other lands appropriated by the act aforesaid.

Sec. 2. *And be it further enacted,* That in case of selections of lands authorized by the previous section, and which, agreeably to treaty stipulations, may hereafter be sold by the United States for the benefit of the Indians, a sum equal to the amount for which said lands may have been sold shall be paid over, by the Treasurer of the United States, to the commissioners authorized to receive the same, for the use and benefit of said canal.

Sec. 3. *And be it further enacted,* That until the lands granted by the aforesaid act of March second, eighteen hundred and twenty-seven, shall be selected, and the selections contemplated by this act shall be made, the public lands on and near the line of said canal, and liable to the selections aforesaid, shall be reserved from sale.

Sec. 4. *And be it further enacted,* That it shall be the duty of the Commissioner of the General Land Office to

furnish said commissioners with a perfect map of the surveyed lands on and contiguous to the Maumee river, within the State of Ohio, including the lands recently purchased from the Indians, carefully noting thereon the lands which have been sold or otherwise disposed of by the United States.

Approved, June 30, 1834.

AN ACT to procure a bust, in marble, of the late Chief Justice Ellsworth.

Be it enacted, &c., That the Joint Committee of the two Houses of Congress on the Library be, and they are hereby, authorized and required to contract with a suitable American artist for the execution, in marble, and delivery in the room of the Supreme Court of the United States, [of] a bust of the late Chief Justice Ellsworth.

Sec. 2. *And be it further enacted*, That, for the purpose of carrying this act into effect, there be, and hereby is, appropriated eight hundred dollars, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, June 30, 1834.

AN ACT concerning the duty on lead.

Be it enacted, &c., That the duty of three cents a pound on lead in pigs, bars, and sheets, shall be considered as extending to all articles manufactured of lead, the value of which does not exceed double that of the raw material of which it is composed, excepting lead manufactured into pipes, and old scrap lead, and which shall pay the same duties as heretofore: *Provided*, That nothing in this section shall extend to or affect the present duties on red and white lead, shot, sugar of lead, and litharge.

Sec. 2. *And be it further enacted*, That the provisions of the aforesaid section shall be subject to the reductions in duties provided for in the act entitled "An act to modify the act of the fourteenth of July, one thousand eight hundred and thirty-two, and all other acts imposing duties on imports," passed second March, one thousand eight hundred and thirty-three.

Approved, June 30, 1834.

AN ACT to aid in the construction of certain roads in the Territory of Michigan.

Be it enacted, &c., That there be, and hereby are, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War, in the Territory of Michigan, the following sums of money, and for the following purposes, to wit:

To aid in opening and constructing the territorial road between Sheldon's, on the Chicago road, and the mouth of the river St. Joseph's, of Lake Michigan, the sum of twenty thousand dollars.

To aid in opening and constructing the territorial road between Port Lawrence and Adrian, the sum of ten thousand dollars.

To aid in opening and constructing the territorial road between Niles and the mouth of the river St. Joseph's, the sum of ten thousand dollars.

To aid in opening the territorial road from the village of Clinton, on the Chicago road, through the county of Jackson, to the rapids of the Grand river, the sum of eight thousand dollars.

To aid in opening, bridging, and constructing a territorial road from Vistula, westwardly, to the Indiana State line, in the direction of Chicago, ten thousand dollars: *Provided, however*, That the moneys to be thus expended shall be applied upon such parts of the several roads as may be most difficult to make, and running principally through the lands of the United States.

Approved, June 30, 1834.

AN ACT for the completion of the road from a point opposite to Memphis, in the State of Tennessee, to Little Rock, in the Territory of Arkansas.

Be it enacted, &c., That the sum of fifteen thousand dollars be, and the same is hereby, appropriated for the completion of the road from a point opposite to Memphis, in the State of Tennessee, to Little Rock, in the Territory of Arkansas; to be paid out of any money in the Treasury not otherwise appropriated.

Approved, June 30, 1834.

AN ACT making certain allowances, and granting certain arrearages, to the captains and subalterns of the United States corps of marines.

Be it enacted, &c., That, from and after the passage of this act, the Secretary of the Navy be, and he is hereby, authorized to extend the benefits of the act of March, one thousand eight hundred and twenty-seven, entitled "An act giving certain compensation to the captains and subalterns of the army of the United States in certain cases," to the captains and subalterns of the corps of United States marines under similar cases.

Sec. 2. *And be it further enacted*, That the Secretary of the Navy be, and he is hereby, authorized to cause to be settled by the proper accounting officers of the Department all arrearages of pay and allowances which shall be found due the said captains and subalterns of the United States corps of marines from the period at which the act of which the act of March, one thousand eight hundred and twenty-seven, above referred to, went into operation, up to the passage of this act; and that the same be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, June 30, 1834.

AN ACT making appropriations for certain fortifications of the United States, for the year one thousand eight hundred and thirty-four.

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, to be paid out of any unappropriated money in the Treasury, for certain fortifications, viz:

For the preservation of Castle island, and repair of Fort Independence, seventeen thousand five hundred and ninety-four dollars.

For a fort on George's island, one hundred thousand dollars.

For Fort Adams, one hundred thousand dollars.

For repairing Fort Columbus and Castle Williams, fifty thousand dollars.

For a fort on Throg's neck, East river, New York, one hundred thousand dollars.

For rebuilding Fort Delaware, seventy-nine thousand dollars.

For Fort Monroe, fifteen thousand dollars.

For Fort Calhoun, one hundred and twenty thousand dollars.

For fortifications in Charleston harbor, fifty thousand dollars.

For the fort at Cockspur island, Georgia, eighty-two thousand dollars.

For completing a fort at Pensacola, forty thousand dollars.

For a fort on Foster's bank, Florida, fifty thousand dollars.

For a fort at Grand Terre, Louisiana, fifty thousand dollars.

For contingencies of fortifications, ten thousand dollars.

For completing Fort Macon, repairing the wharf and dyke, and for the protection of the site of that work, seven thousand dollars.

In satisfaction of a contract made with John Urguhart for

attending the troops of the United States, as surgeon, from Fort Mitchell to Charleston, and thence to Point Comfort, four hundred and fifty dollars.

Approved, June 30, 1834.

AN ACT making appropriations for building light-houses, light-boats, beacons, and monuments, for the year one thousand eight hundred and twenty-four.

Be it enacted, &c., That the following appropriations be, and the same are hereby, made and directed to be paid out of any money in the Treasury not otherwise appriated, to enable the Secretary of the Treasury to provide by contract, for building light-houses, light-boats, beacons, and monuments, to wit.

STATE OF MAINE.

For a light-house to be erected on a proper site on Fort point, at the entrance of Penobscot bay, five thousand dollars.

For a light-house to be erected on a proper site on Negro island, at the entrance of Camden harbor, four thousand five hundred dollars.

For the erection of a beacon on the end of a shoal in George's river, round which is formed what is called the Great Bend, three thousand dollars.

For a fog-bell to be placed on a proper site on Cape Elizabeth, near the eastern light-house, seven hundred dollars.

STATE OF MASSACHUSETTS.

For the erection of a light-house on the northeasterly part of Straitmouth harbor, five thousand dollars.

For building a light-house at the entrance of the harbor of Marblehead, four thousand five hundred dollars

For a beacon at the harbor in the mouth of Bass river, between the towns of Dennis and Yarmouth, at or near the site where the former beacon was erected, one thousand five hundred dollars.

For a beacon or monument on Deer Island point, Boston harbor, three thousand five hundred dollars.

For a monument of stone on the island of Nixe's Mate, in the harbor of Boston, one thousand dollars.

STATE OF RHODE ISLAND.

For the removal of the light-house now on the north end of Goat island, near the harbor of Newport, to a point north of its present site, agreeably to a survey and estimate heretofore made by direction of the Department of War, thirteen thousand six hundred dollars.

STATE OF NEW YORK.

For a light-house on a proper site at or near the mouth of Esopus creek, and near Saugerties, five thousand dollars.

For beacon light on the piers at the mouth of Genesee river and Sodus bay, four thousand dollars.

For a light-house or beacon light on one of the piers at the harbor of Oswego, on Lake Ontario, three thousand six hundred and sixty-six dollars.

For placing four lights on the following points in Hudson's river, viz: one near Van Wie's point, one near Castleton, one on the island near New Baltimore, and one at Kinderhook, six hundred dollars.

For a light-house on a proper site at the mouth of Oswegatchie, a tributary stream of the St. Lawrence, five thousand dollars.

For a light-house on the flats in Hudson's river, above Stuyvesant's landing, in the place of the one carried away by the ice, five thousand dollars.

STATE OF NEW JERSEY.

For a light-house on or near the shoals of Barnegat, to be erected in such a manner as to be distinguished from the adjacent lights, six thousand dollars.

STATE OF DELAWARE.

For rebuilding the light-house on Brandywine shoals, in the bay of Delaware, thirty thousand dollars: *Provided, however*, That before the commencement of the work a resurvey, plan, and estimate, shall be made, and that then it shall be in the discretion of the proper department to enter upon the rebuilding of the said light-house, or to report such survey, plan, and estimate, to Congress, as shall be considered best for the public interests.

For building a light-house at the mouth of Christiana river, six thousand dollars.

STATE OF MARYLAND.

For a bell, and fixing the same on the light-house at Cove point, in Chesapeake bay, one thousand two hundred dollars.

For building a light-house on Love point, the sum of five thousand five hundred dollars.

STATE OF VIRGINIA.

For a light-boat to be anchored in a proper place at the mouth of the Rappahannock river, twelve thousand dollars.

STATE OF NORTH CAROLINA.

For a light-boat to be anchored in a proper place at or near the mouth of Roanoke river, ten thousand dollars.

STATE OF GEORGIA.

For two small beacon lights on Cockspur island, at the mouth of Savannah river, four thousand dollars.

STATE OF OHIO.

For a beacon light on a proper site for Huron river, two thousand six hundred dollars.

For a beacon light on the pier at Conneaut river, two thousand dollars.

For a beacon light on a proper site for Ashtabula creek, two thousand dollars.

For completing the beacon light on the pier at Grand river, one thousand four hundred and fifty-six dollars.

For a beacon light on the pier at Cunningham harbor, two thousand dollars.

STATE OF LOUISIANA.

For the erection of a light-houses on a proper site at port Pontchartrain, five thousand dollars.

For a light-house at a proper site at the mouth of Chifuncté river, five thousand dollars.

STATE OF MISSISSIPPI.

For a light-house at the mouth of Pearl river, five thousand dollars.

STATE OF INDIANA.

For a light-house on a proper site at or near Michigan city, five thousand dollars.

TERRITORY OF MICHIGAN.

For a light-house on a proper site at Pattawatamie island, situated at the entrance of Green bay, in Lake Michigan, five thousand dollars.

For securing and completing the foundation of the light-house on Turtle island, in Lake Erie, two thousand dollars.

TERRITORY OF FLORIDA.

For a light-house on a proper site at Musquito inlet, on the Atlantic coast, eleven thousand dollars.

For rebuilding the light-house at St. John's river, ten thousand five hundred and fifty dollars.

Approved, 30th June, 1834.

AN ACT to carry into full effect the fourth article of the treaty of the eighth of January, eighteen hundred and twenty-one, with the Creek nation of Indians, so far as relates to the claims of citizens of Georgia against said Indians, prior to eighteen hundred and two.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to cause to be adjusted and paid to full indemnity, out of any money in the Treasury not otherwise appropriated, all claims of citizens of the State of Georgia, under the fourth article of the treaty of the eighth of January, eighteen hundred and twenty-one, between the United States and the Creek nation of Indians, which have not been heretofore adjusted and paid, on the following principles: all claims which

have not been heretofore adjusted and paid, founded upon the capture and detention, or destruction of property by said Indians, prior to the passage of the act regulating intercourse with Indian tribes, if satisfactorily established, shall be allowed and paid.

Sec. 2. *And be it further enacted,* That there shall be an interest of six per cent. per annum allowed and paid on the amount of all claims which have been or may be adjusted and established under the provisions of the aforesaid treaty, to be calculated from the date of the origin of the claims, respectively, up to the date of the adjustment and establishment of said claims, respectively. *Provided, however,* That the amount which may be allowed under the provisions of this act, as interest, shall be calculated on the amount of the value of the property so taken or destroyed; the amount of the principal of each claim to be determined by the value of the property for which it was and is made at the time said property was so taken or destroyed: *And provided, also,* That the aggregate amount of the claims which have been, and hereafter may be, paid shall not exceed the sum of two hundred and fifty thousand dollars.

Sec. 3. *And be it further enacted,* That if, on the adjustment of the aforesaid claims, the amount which may be found due, and the amount already paid, with the interest to be calculated as aforesaid, shall exceed the sum of two hundred and fifty thousand dollars, the President be, and he is hereby, authorized to cause a fair and equitable distribution of the unexpended balance of the said two hundred and fifty thousand dollars to be made among the claimants, in proportion to the amount which may have been, or shall be, found due to them, respectively: *Provided,* That the principal of the respective claims shall be first paid.

Approved, June 30, 1834.

AN ACT making appropriations for the public buildings and grounds, and for other purposes.

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the following purposes, that is to say:

For alterations and repairs of the Capitol, including the repairs of the roof, six thousand two hundred and ninety-two dollars.

For laying pipes for the purpose of draining the east and west reservoirs, two thousand six hundred and thirty-three dollars.

For salary of the gardener employed in superintending the Capitol square, and other public grounds, one thousand dollars.

For lighting lamps, keeping the grounds and walks in order, and planting in the Capitol square, and adjacent public grounds, four thousand eight hundred and twenty six dollars.

For alterations and repairs of the President's house, flooring the terraces, and erecting stables, six thousand six hundred and seventy dollars.

For the gradener's salary, and for laborers employed upon the grounds and walks at the President's house, and for planting, two thousand eight hundred and fifty dollars.

For paving foot ways at the north front of the President's house, and making a gravel carriage way, thirteen thousand seven hundred and forty-four dollars.

For planting trees and repairing the fence in Lafayette square, north of the President's house, one thousand dollars.

For purchasing and planting trees and shrubs for the Pennylvania avenue and the public grounds, three thousand dollars.

For keeping in repair the public fire engines, two hundred dollars.

For rebuilding the wall and constructing a culvert and drain at the burying ground, one thousand nine hundred and sixty-six dollars.

For the actual deficiency in the appropriation made during the last year for the enclosure of the public vault and the improvement of the public burying ground, one hundred and ninety-three dollars and eighty-nine cents.

For completing the water works at the President's house, the Executive buildings, and the Capitol, one thousand and fifty-two dolllars.

For completing the furniture of the President's house, six thousand dollars.

For excess of expenditures beyond the appropriations made by the late Commissioner of the Public Buildings during the last year, twenty-two thousand nine hundred and thirteen dollars and eighty-four cents.

For erecting a monument over the remains of the late Major General Jacob Brown, one thousand dollars; the work to be done under the direction of the Secretary of War.

For the construction of an ornamental hydrant of marble of the west fountain in front of the Capitol, one thousand and twenty-two dollars.

Sec. 2. *And be it further enacted,* That the regulations of the City of Washington for the preservation of the public peace and order be extended to all the public buildings and public grounds belonging to the United States within the City of Washington, whenever the application of the same shall be requested by the Commissioner of the Public Buildings.

Approved, June 30, 1834.

AN ACT to complete the improvements on Pennsylvania avenue.

Be it enacted, &c., That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the following purposes:

To pay outstanding claims for work done on Pennsylvania avenue, three thousand seven hundred and twenty dollars.

To finish foot pavements, entrances of tunnels or sewers, and side drains, three thousand seven hundred and seventy dollars.

To repair the north end of Tiber bridge, by casting a stone arch over the broken part, and protecting it by a stone wall, one thousand two hundred dollars.

For expenses already incurred in removing the dust and mud from the surface of Pennsylvania avenue, one hundred and forty-three dollars and seventy cents.

To keep Pennsylvania avenue in repair, four hundred dollars.

Approved, June 30, 1834.

AN ACT authorizing a road to be cut out from the northern boundary of the Territory of Florida, by Marianna, to the town of Appalachicola, within the said Territory.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to cause to be surveyed, marked, and located, a route for a road from the line which divides the State of Alabama from the Territory of Florida, by Marianna, in the county of Jackson, to the town of Appalachicola, on the bay of Appalachicola, in said Territory; and when said survey, and the final location of the said road, shall be made, if he approve the same, he is hereby authorized to cause it to be cut out; and for that purpose the sum of twelve thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated: *Provided,* That the said road shall be cut out by contract, and that no money shall be paid at any time on account thereof, but on the certificate of an engineer of

the army of the United States that the said road has been faithfully constructed, according to the terms of such contract.

For the survey of a road from Tallahassee to Cape Florida, five hundred dollars.

For a survey of the East pass into Appalachicola bay and river, to ascertain the practicability and cost of removing obstructions and improving the harbor, five hundred dollars.

Approved, June 30, 1834.

AN ACT to mark and open a road from Columbia to Little Rock, in the Territory of Arkansas.

Be it enacted, &c., That the sum of ten thousand dollars be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of marking and cutting out a road from Columbia, in Chicot county, to Little Rock, in the Territory of Arkansas, to be expended under the direction of the President of the United States.

Approved, June 30, 1834.

AN ACT making an appropriation for the improvement of the navigation of the Hudson river, in the State of New York.

Be it enacted, &c., That the sum of seventy thousand dollars be, and the same is hereby, appropriated towards the improvement of the navigation of the Hudson river, and the removal of obstructions therein, according to the plan submitted to the House of Representatives by the Department of War, under date of March thirty, eighteen hundred and thirty-two; which sum shall be paid out of any money in the Treasury not otherwise appropriated, and shall be expended under the direction of the President of the United States.

Approved, June 30, 1834.

AN ACT to authorize an extra session of the Legislative Council of the Territory of Michigan.

Be it enacted, &c., That the Legislative Council of the Territory of Michigan be, and hereby is, authorized to hold an extra session, to commence at such time during the present year, as the Governor of said Territory may think proper; of which time it shall be his duty to give the members of said Council due notice.

Sec. 2. *And be it further enacted*, That for the purpose of defraying the incidental expenses, and for paying the members of the Legislative Council for travel and for additional time employed as aforesaid, the sum of three thousand dollars be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated.

Approved, June 30, 1834.

AN ACT authorizing the purchase of live oak frames for a frigate and sloop of war, and for other naval purposes.

Be it enacted, &c., That the Secretary of the Navy be, and he is hereby, authorized to direct the procurement, in the usual mode, of a live oak frame for a frigate to be called the Paul Jones, and a live oak frame for a sloop of war to be called the Levant; and the sum of fifty thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for that purpose.

Sec. 2. *And be it further enacted*, That the district attorney of Massachusetts, and the Solicitor of the Treasury of the United States, be, and they are hereby, authorized and required to defend the suit, instituted by the heirs of John Harris, for land connected with the navy yard at Charlestown, Massachusetts, in the courts of that district, and, with the aid of the Attorney General of the United States, to defend the same in the Supreme Court at Washington, if brought up by appeal or writ of error.

Sec. 3. *And be it further enacted*, That, for completing and furnishing the hospitals at the several naval stations, the sum of sixty-four thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Navy.

Sec. 4. *And be it further enacted*, That the sum of twenty-four thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for building two new naval magazines at the navy yards at Charlestown, Massachusetts, and Brooklyn, New York.

Sec. 5. *And be it further enacted*, That the sum of forty thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the building of a naval store ship.

Sec. 6. *And be it further enacted*, That the sum of seventy thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the building of two small vessels of war, to be rigged as brigs or schooners, at the discretion of the Navy Department.

Sec. 7. *And be it further enacted*, That the sum of four thousand five hundred dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the repair of the damage occasioned by the late gale at the navy yard, Brooklyn, New York.

Sec. 8. *And be it further enacted*, That the district attorney of the Eastern district of the State of Virginia, and the Solicitor of the Treasury of the United States, be, and they are hereby, authorized and required to defend the suit instituted by John Harper, or by any other person or persons whatsoever, for land connected with the navy yard at Gosport, in said State, in the courts of that district, and with the aid of the Attorney General of the United States, to defend the same in the Supreme Court at Washington, if brought up by appeal, writ of error, or otherwise.

Sec. 9. *And be it further enacted*, That the sum of eight thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the repairs of the marine barracks at the different stations, and for erecting a hospital at head quarters.

Sec. 10. *And be it further enacted*, That no part of the balance of the appropriation heretofore made to rebuild the frigate Macedona [Macedonian] and not yet expended, shall be carried to the surplus until one year after said frigate shall be launched.

Sec. 11. *And be it further enacted*, That the sum of two thousand seven hundred and ten dollars and seventy five cents be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, towards building a wharf at Pensacola.

Sec. 12. *And be it further enacted*, That a sum not exceeding six thousand dollars be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to purchase a site near the navy yard, Brooklyn, New York, on which to erect marine barracks and officers' quarters: *Provided*, That the present site, or one on the hospital grounds, should not be found so convenient and useful for that purpose.

Sec. 13. *And be it further enacted*, That the sum of one hundred and twenty-nine dollars be appropriated, out of any moneys in the Treasury not otherwise appropriated, for compensation to Lieut. Thomas Dornin, for extra services in surveying the coast in eighteen hundred and twenty-seven; the said sum having been carried to the surplus fund from a former appropriation.

Approved, June 30, 1834.

AN ACT to provide for the payment of claims, for property lost, captured, or destroyed, by the enemy, while in the military service of the United States, during the late war with the Indians on the frontiers of Illinois and Michigan Territory.

Be it enacted, &c., That any officer, field or staff, volunteer, ranger, cavalry, or other persons engaged in the service of the United States in the late campaigns against the Indians, on the frontiers of Illinois and Michigan Territory, who have sustained damage without any fault or negligence on their part, respectively, by the loss of a horse, or necessary equipage, in battle, or by the loss of a horse that was wounded in battle, and afterwards died of said wound while in the service, or who has sustained damage by the reason of the loss of any horse which, in consequence of the United States failing to supply sufficient forage, while engaged in said service, died, or was unavoidably abandoned and lost, or who has sustained damage by reason of the loss of any horse, because the rider was dismounted and seperated from his horse, and ordered to do military duty on foot at a station detached from his horse, or for the loss of necessary equipage, in consequence of the loss of his horse as aforesaid, shall be allowed and paid the value thereof: *Provided*, That if any payment shall have been made to any officer, soldier, or other person, as aforesaid, for the use and risk, or for forage after the death or abandonment of said horse, said amount shall be deducted from the value thereof, unless said officer or soldier or other person shall have satisfied the paymaster at the time he made the payment, or shall hereafter show by proof, that he was remounted, in which case the deduction shall only extend to the time such officer, soldier, or other person, served on foot. *And provided, also*, That if any payment shall have been made to any officer or soldier on account of clothing, such payment shall be deducted from the value of his horse and accoutrements. *And provided, further*, That no claim shall be allowed under the provisions of this section until the best evidence which the nature of the case will admit of shall be produced before the accounting officer, showing the number of horses lost in manner aforesaid, the time when lost, and the name of the owner.

Sec. 2. *And be it further enacted*, That any person who, in the Indian wars aforesaid, has acted in the military service of the United States as a volunteer or draughted militiaman, and who has furnished himself with arms and military accoutrements, and has sustained damage by the capture or destruction of the same, without any fault or negligence on his part, or who has lost the same by reason of his being wounded in the service, shall be allowed and paid the value thereof.

Sec. 3. *And be it further enacted*, That in all instances where any minor has been engaged in the military service as aforesaid, during the Indian wars as aforesaid, and was provided with a horse or equipments, or with military accoutrements, by his parents or guardian, and has since deceased, without paying for said property, and the same was lost, captured, destroyed, or abandoned, in the manner before mentioned, said parent or guardian shall be allowed pay therefor on making satisfactory proof as in other cases, and the further proof that he is entitled thereto by having furnished the same.

Sec. 4. *And be it further enacted*, That the Third Auditor of the Treasury shall adjudicate and decide such claims as may be presented against the United States, under the provisions of this act: *Provided*, That every claim which exceeds the sum of two hundred dollars, instead of deciding the same, the said Third Auditor shall report the whole of the proof to Congress at its next session, after taking and closing such proof; and he shall have power, by constituting a commission or otherwise, to take testimony in any case where he shall think the interests of the United States require further testimony to be taken.

Sec. 5. *And be it further enacted*, That any sum of money, to any amount not exceeding two hundred dollars, so allowed by said Third Auditor, shall be paid by the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated.

Approved, June 30, 1834.

AN ACT authorizing the construction of a bridge across the Potomac, and repealing all acts already passed in relation thereto.

Be it enacted, &c., That the act entitled "An act providing for the purchase by the United States of the rights of the Washington Bridge Company, in the District of Columbia, and for the erection of a public bridge on the site thereof," which passed the fourteenth day of July, eighteen hundred and thirty-two, and the act entitled "An act in relation to the Potomac bridge," which passed the second day of March, eighteen hundred and thirty-three, be, and the same are hereby, repealed, except so much of the former as authorized the purchase of the rights of the Washington Bridge Company.

Sec. 2. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized and required to contract for the reconstruction on the site of the present bridge across the river Potomac, of a bridge on the plan of that originally constructed there by the Washington Bridge Company: *Provided*, That the draw at the southern channel of the river be not less than sixty-six feet, and at the northern channel than thirty-five feet; that a space or spaces not exceeding in all, one thousand six hundred and sixty feet of the shoal or shoals, over which the present bridge passes, may be filled up by a solid embankment, in part, if convenient, of earth obtained by dredging the river channel: *And provided, also*, That the entire cost of the said embankment, and such reconstruction shall not, on the whole, exceed one hundred and thirty thousand dollars; which sum is hereby appropriated thereto, out of any money in the Treasury not hitherto appropriated.

Sec. 3. *And be it further enacted*, That the claims of Orange H. Dibble, for labor, materials, or any other expenses upon the said bridge, be ascertained by the Secretary of the Treasury, as nearly as the same can be done, and be laid before Congres at its next session, for its examination. And the Secretary of the Treasury is hereby directed to pay him in the mean time such sum as will reimburse to him the actual loss incurred by him in making preparation for the construction of the said bridge: *Provided*, The amount paid shall not exceed twenty thousand dollars; said payment to be made out of any money in the Treasury not otherwise appropriated.

Approved, June 30, 1834.

AN ACT to authorize the sale of lots in the town of St. Mark's, in Florida.

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to direct the register and receiver of the Tallahassee land district to make sale at public auction of one-fourth of the lots in the town of St. Mark's, in the Territory of Florida, according to the plan of the surveyor general of said Territory, as soon as practicable after the passage of this act, upon giving two months' public notice of the said sale.

Approved, June 30, 1834.

AN ACT supplementary to the act to amend the several acts respecting copyrights.

Be it enacted, &c., That all deeds or instruments in writing for the transfer or assignment of copyrights, being proved or acknowledged in such manner as deeds for the conveyance of land are required by law to be proved or acknowledged in the same State or district, shall and

may be recorded in the office where the original copyright is deposited and recorded; and every such deed or instrument that shall in any time hereafter be made and executed, and which shall not be proved or acknowledged and recorded as aforesaid, within sixty days after its execution, shall be judged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration without notice.

Sec. 2. *And be it further enacted,* That the clerk of the district court shall be entitled to such fees for performing the services herein authorized and required, as he is entitled to for performing like services under existing laws of the United States.

Approved, June 30, 1834.

AN ACT to provide for rebuilding the frigate Congress.

Be it enacted, &c., That the sum of one hundred eighty-one thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to rebuild the frigate Congress; and no part of said sum shall be carried to the surplus fund, notwithstanding any general provision in any other act to the contrary.

Approved, June 30, 1834.

AN ACT authorizing the Secretary of the Navy to make experiments for the safety of the steam engine.

Be it enacted, &c., That the Secretary of the Navy be, and he is hereby, authorized and empowered to examine and test the steam engine devised by Benjamin Phillips, of Philadelphia, and to [employ] said Phillips, and such other persons as he may deem proper, to make the experiment.

Sec. 2. *And be it further enacted,* That a discretionary power be vested in the Secretary of the Navy to examine and test such other improvements, in the same line, as may hereafter be presented, and for that purpose to employ such person or persons as he may deem proper; and that he report to Congress, as soon as may be, the result of any experiment made in pursuance of this act.

Sec. 3. *And be it further enacted,* That, for the purpose of carrying this act into execution, the sum of five thousand dollars, out of any money in the Treasury not otherwise appropriated, be, and is hereby, appropriated, and placed at the disposal of the Secretary of the Navy.

Approved, June 30, 1834.

AN ACT to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers.

Be it enacted, &c., That all that part of the United States west of the Mississippi, and not within the States of Missouri and Louisiana, or the Territory of Arkansas, and, also, that part of the United States east of the Mississippi river, and not within any State to which the Indian title has not been extinguished, for the purposes of this act, be taken and deemed to be the Indian country.

Sec. 2. *And be it further enacted,* That no person shall be permitted to trade with any of the Indians (in the Indian country) without a license therefor from a superintendent of Indian affairs, or Indian agent, or sub-agent; which license shall be issued for a term not exceeding two years for the tribes east of the Mississippi, and not exceeding three years for the tribes west of that river. And the person applying for such license shall give bond in a penal sum not exceeding five thousand dollars, with one or more sureties, to be approved by the person issuing the same, conditioned that such person will faithfully observe all the laws and regulations made for the government of trade and intercourse with the Indian tribes, and in no respect violate the same. And the superintendent of the district shall have power to revoke and cancel the same, whenever the person licensed shall, in his opinion, have transgressed any of the laws or regulations provided for the government of trade and intercourse with the Indian tribes, or that it would be improper to permit him to remain in the Indian country. And no trade with the said tribes shall be carried on within their boundary, except at certain suitable and convenient places, to be designated from time to time by the superintendents, agents, and sub-agents, and to be inserted in the license. And it shall be the duty of the persons granting or revoking such licenses, forthwith to report the same to the Commissioner of Indian Affairs, for his approval or disapproval.

Sec. 3. *And be it further enacted,* That any superintendent, or agent, may refuse an application for a license to trade, if he is satisfied that the applicant is a person of bad character, or that it would be improper to permit him to reside in the Indian country, or if a license previously granted to such applicant has been revoked, or a forfeiture of his bond decreed. But an appeal may be had from the agent or the superintendent to the Commissioner of Indian Affairs; and the President of the United States shall be authorized, whenever in his opinion the public interest may require the same, to prohibit the introduction of goods, or of any particular article, into the country belonging to any Indian tribe, and to direct all licenses to trade with such tribe to be revoked, and all applications therefor to be rejected; and no trader to any other tribe shall, so long as such prohibition may continue, trade with any Indians of or for the tribe against which such prohibition is issued.

Sec. 4. *And be it further enacted,* That any person other than an Indian who shall attempt to reside in the Indian country as a trader, or to introduce goods, or to trade therein without such license, shall forfeit all merchandise offered for sale to the Indians, or found in his possession, and shall moreover forfeit and pay the sum of five hundred dollars.

Sec. 5. *And be it further enacted,* That no license to trade with the Indians shall be granted to any persons except citizens of the United States: *Provided,* That the President shall be authorized to allow the employment of foreign boatmen and interpreters, under such regulations as he may prescribe.

Sec. 6. *And be it further enacted,* That if a foreigner shall go into the Indian country without a passport from the War Department, the superintendent, agent, or sub-agent, of Indian affairs, or from the officer of the United States commanding the nearest military post on the frontiers, or shall remain intentionally therein after the expiration of such passport, he shall forfeit and pay the sum of one thousand dollars; and such passport shall express the object of such person, the time he is allowed to remain, and the route he is to travel.

Sec. 7. *And be it further enacted,* That if any person, other than an Indian, shall, within the Indian country, purchase or receive of any Indian, in the way of barter, trade, or pledge, a gun, trap, or other article commonly used in hunting, any instrument of husbandry or cooking utensils of the kind commonly obtained by the Indians in their intercourse with the white people, or any other article of clothing, except skins or furs, he shall forfeit and pay the sum of fifty dollars.

Sec. 8. *And be it further enacted,* That if any person, other than an Indian, shall, within the limits of any tribe with whom the United States shall have existing treaties, hunt, or trap, or take and destroy, any peltries or game, except for subsistence in the Indian country, such person shall forfeit the sum of five hundred dollars, and forfeit all the traps, guns, and ammunition, in his possession, used or procured to be used for that purpose, and peltries so taken.

Sec. 9. *And be it further enacted,* That if any person shall drive, or otherwise convey any stock of horses,

mules, or cattle, to range and feed on any land belonging to any Indian or Indian tribe, without the consent of such tribe, such person shall forfeit the sum of one dollar for each animal of such stock.

Sec. 10. *And be it further enacted,* That the Superintendent of Indian Affairs, and Indian agents, and sub-agents, shall have authority to remove from the Indian country all persons found therein contrary to law; and the President of the United States is authorized to direct the military force to be employed in such removal.

Sec. 11. *And be it further enacted,* That if any person shall make a settlement on any lands belonging, secured, or granted by treaty with the United States, to any Indian tribe, or shall survey or shall attempt to survey such lands, or designate any of the boundaries by marking trees, or otherwise, such offender shall forfeit and pay the sum of one thousand dollars. And it shall, moreover, be lawful for the President of the United States to take such measures, and to employ such military force, as he may judge necessary to remove from the lands as aforesaid any such persons as aforesaid.

Sec. 12. *And be it further enacted,* That no purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians, shall be of any validity in law or equity, unless the same be made by treaty or convention entered into pursuant to the constitution. And if any person, not employed under the authority of the United States, shall attempt to negotiate such treaty or convention, directly or indirectly, to treat with any such nation or tribe of Indians, for the title or purchase of any lands by them held or claimed, such person shall forfeit and pay one thousand dollars: *Provided, nevertheless,* That it shall be lawful for the agent or agents of any State who may be present at any treaty held with Indians under the authority of the United States, in the presence and with the approbation of the commissioner or commissioners of the United States appointed to hold the same, to propose to, and adjust with, the Indians, the compensation to be made for their claim to lands within such State which shall be extinguished by treaty.

Sec. 13. *And be it further enacted,* That if any citizen or other person residing within the United States or the territory thereof, shall send any talk, speech, message, or letter, to any Indian nation, tribe, chief, or individual, with an intent to produce a contravention or infraction of any treaty or other law of the United States, or to disturb the peace and tranquillity of the United States, he shall forfeit and pay the sum of two thousand dollars.

Sec. 14. *And be it further enacted,* That if any citizen or other person shall carry or deliver any such talk, message, speech, or letter, to or from any Indian nation, tribe, chief, or individual, from or to any person or persons whatsoever, residing within the United States, or from or to any subject, citizen, or agent of any foreign Power or State, knowing the contents thereof, he shall forfeit and pay the sum of one thousand dollars.

Sec. 15. *And be it further enacted,* That if any citizen or other person, residing or living among the Indians, or elsewhere within the territory of the United States, shall carry on a correspondence, by letter or otherwise, with any foreign nation or Power, with an intent to induce such foreign nation or Power to excite any Indian nation, tribe, chief, or individual, to war against the United States, or to the violation of any existing treaty; or in case any citizen or other person shall alienate, or attempt to alienate, the confidence of any Indian or Indians from the Government of the United States, he shall forfeit the sum of one thousand dollars.

Sec. 16. *And be it further enacted,* That where, in the commission, by a white person, of any crime, offence, or misdemeanor, within the Indian country, the property of any friendly Indian is taken, injured, or destroyed, and a conviction is had for such crime, offence, or misdemeanor, the person so convicted shall be sentenced to pay to such friendly Indian to whom the property may belong, or whose person may be injured, a sum equal to twice the just value of the property so taken, injured, or destroyed. And if such offender shall be unable to pay a sum at least equal to the just value or amount, whatever such payment shall fall short of the same, shall be paid out of the Treasury of the United States: *Provided,* That no such Indian shall be entitled to any payment out of the Treasury of the United States, for any such property, if he, or any of the nation to which he belongs, shall have sought private revenge, or attempted to obtain satisfaction by any force or violence: *And provided, also,* That if such offender cannot be apprehended and brought to trial, the amount of such property shall be paid out of the Treasury, as aforesaid.

Sec. 17. *And be it further enacted,* That if any Indian or Indians, belonging to any tribe in amity with the United States, shall, within the Indian country, take or destroy the property of any person lawfully within such country, or shall pass from the Indian country into any State or Territory inhabited by citizens of the United States, and there take, steal, or destroy, any horses, or other property, belonging to any citizen or inhabitant of the United States, such citizen or inhabitant, his representative, attorney, or agent, may make application to the proper superintendent, agent, or sub-agent, who, upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which said Indian or Indians shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction, in a reasonable time, not exceeding twelve months, it shall be the duty of such superintendent, agent, or sub-agent, to make return of his doings to the Commissioner of Indian Affairs, that such further steps may be taken as shall be proper, in the opinion of the President, to obtain satisfaction for the injury; and in the mean time, in respect to the property so taken, stolen, or destroyed, and the United States guaranty, to the party so injured, an eventual indemnification: *Provided,* That if such injured party, his representative, attorney, or agent, shall, in any way, violate any of the provisions of this act, by seeking or attempting to obtain private satisfaction or revenge, he shall forfeit all claim upon the United States for such indemnification: *And provided, also,* That unless such claim shall be presented within three years after the commission of the injury, the same shall be barred. And if the nation or tribe to which such Indian may belong, receive an annuity from the United States, such claim shall, at the next payment of the annuity, be deducted therefrom, and paid to the party injured; and, if no annuity is payable to such nation or tribe, then the amount of the claim shall be paid from the Treasury of the United States: *Provided,* That nothing herein contained shall prevent the legal apprehension and punishment of any Indians having so offended.

Sec. 18. *And be it further enacted,* That the superintendents, agents, and sub-agents, within their respective districts, be, and are hereby, authorized and empowered to take depositions of witnesses touching any depredations within the purview of the two preceding sections of this act, and to administer an oath to the deponents.

Sec. 19. *And be it further enacted,* That it shall be the duty of the superintendents, agents, and sub-agents, to endeavor to procure the arrest and trial of all Indians accused of committing any crime, offence, or misdemeanor, and all other persons who may have committed crimes or offences within any State or Territory, and have fled into the Indian country, either by demanding the same of the chiefs of the proper tribe, or by such other means as the President may authorize; and the

President may direct the military force of the United States to be employed in the apprehension of such Indians, and also in preventing or terminating hostilities between any of the Indian tribes.

Sec. 20. *And be it further enacted,* That if any person shall sell, exchange, or give, barter, or dispose of, any spirituous liquor or wine to an Indian, (in the Indian country,) such person shall forfeit and pay the sum of five hundred dollars; and if any person shall introduce, or attempt to introduce, any spirituous liquor or wine into the Indian country, except such supplies as shall be necessary for the officers of the United States and troops of the service, under the direction of the War Department, such person shall forfeit and pay a sum not exceeding three hundred dollars; and if any superintendent of Indian affairs, Indian agent, or sub-agent, or commanding officer of a military post, has reason to suspect, or is informed, that any white person or Indian is about to introduce, or has introduced, any spirituous liquor or wine into the Indian country, in violation of the provisions of this section, it shall be lawful for such superintendent, Indian agent, or sub-agent, or military officer, agreeably to such regulations as may be established by the President of the United States, to cause the boats, stores, packages, and places of deposite of such person to be searched, and if any such spirituous liquor or wine is found, the goods, boats, packages, and peltries of such persons shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited, one-half to the use of the informer, and the other half to the use of the United States; and if such person is a trader, his license shall be revoked and his bond put in suit. And it shall moreover be lawful for any person in the service of the United States, or for any Indian, to take and destroy any ardent spirits or wine found in the Indian country, excepting military supplies as mentioned in this section.

Sec. 21. *And be it further enacted,* That if any person whatever shall, within the limits of the Indian country, set up or continue any distillery for manufacturing ardent spirits, he shall forfeit and pay a penalty of one thousand dollars; and it shall be the duty of the Superintendent of Indian Affairs, Indian agent, or sub-agent, within the limits of whose agency the same shall be set up or continued, forthwith to destroy and break up the same; and it shall be lawful to employ the military force of the United States in executing that duty.

Sec. 22. *And be it further enacted,* That in all trials about the right of property, in which an Indian may be a party on one side, and a white person on the other, the burden of proof shall rest upon the white person, whenever the Indian shall make out a presumption of title in himself from the fact of previous possession or ownership.

Sec. 23. *And be it further enacted,* That it shall be lawful for the military force of the United States to be employed in such manner, and under such regulations as the President may direct, in the apprehension of every person who shall or may be found in the Indian country, in violation of any of the provisions of this act, and him immediately to convey from said Indian country, in the nearest convenient and safe route, to the civil authority of the Territory or judicial district in which said person shall be found, to be proceeded against in due course of law; and, also, in the examination and seizure of stores, packages, and boats, authorized by the twentieth section of this act, and in preventing the introduction of persons and property into the Indian country contrary to law; which persons and property shall be proceeded against according to law: *Provided,* That no person apprehended by military force, as aforesaid, shall be detained longer than five days after the arrest, and before removal. And all officers and soldiers who may have any such person or persons in custody shall treat them with all the humanity which the circumstances will possibly permit; and every officer or soldier who shall be guilty of maltreating any such person while in custody, shall suffer such punishment as a court-martial shall direct.

Sec. 24. *And be it further enacted,* That, for the sole purpose of carrying this act into effect, all that part of the Indian country west of the Mississippi river, that is bounded north by the north line of lands assigned to the Osage tribe of Indians, produced east to the State of Missouri; west, by the Mexican possessions; south, by Red river; and east, by the west line of the Territory of Arkansas and the State of Missouri, shall be, and hereby is, annexed to the Territory of Arkansas; and that, for the purpose aforesaid, the residue of the Indian country west of the said Mississippi river shall be, and hereby is, annexed to the judicial district of Missouri; and, for the purpose aforesaid, the several portions of Indian country east of the said Mississippi river, shall be, and are hereby, severally annexed to the Territory in which they are situate.

Sec. 25. *And be it further enacted,* That so much of the laws of the United States as provides for the punishment of crimes committed within any place within the sole and exclusive jurisdiction of the United States, shall be in force in the Indian country: *Provided,* The same shall not extend to crimes committed by one Indian against the person or property of another Indian.

Sec. 26. *And be it further enacted,* That if any person who shall be charged with a violation of any of the provisions or regulations of this act, shall be found within any of the United States, or either of the Territories, such offenders may be there apprehended, and transported to the Territory or judicial district having jurisdiction of the same.

Sec. 27. *And be it further enacted,* That all penalties which shall accrue under this act, shall be sued for and recovered in action of debt, in the name of the United States, before any court having jurisdiction of the same, (in any State or Territory in which the defendant shall be arrested or found,) the one-half to the use of the informer, and the other half to the use of the United States, except when the prosecution shall be first instituted on behalf of the United States, in which case the whole shall be to their use.

Sec. 28. *And be it further enacted,* That when goods or other property shall be seized for any violation of this act, it shall be lawful for the person prosecuting on behalf of the United States to proceed against such goods, or other property, in the manner directed to be observed in the case of goods, wares, or merchandise brought into the United States in violation of the revenue laws.

Sec. 29. *And be it further enacted,* That the following acts and parts of acts shall be, and the same are hereby, repealed, namely: An act to make provision relative to rations for Indians, and to their visits to the seat of Government, approved May thirteen, eighteen hundred; an act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, approved March thirty, eighteen hundred and two; an act supplementary to the act passed thirtieth March, eighteen hundred and two, to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, approved April twenty-nine, eighteen hundred and sixteen; an act for the punishment of crimes and offences committed within the Indian boundaries, approved March three, eighteen hundred and seventeen; the first and second sections of the act directing the manner of appointing Indian agents, and continuing the "Act establishing trading-houses with the Indian tribes," approved April sixteen, eighteen hundred and eighteen; an act fixing the compensation of Indian agents and factors, approved April twenty, eighteen hundred and eighteen; an act supplementary to the act entitled "An act to provide for the prompt settlement of public accounts," approved February twenty-

four, eighteen hundred and nineteen; the eighth section of the act making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned, approved March three, eighteen hundred and nineteen; the second section of the act to continue in force for a further time the act entitled "An act for establishing trading-houses with the Indian tribes, and for other purposes," approved March three, eighteen hundred and nineteen; an act to amend an act entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved thirtieth of March, eighteen hundred and two, approved May six, eighteen hundred and twenty-two; an act providing for the appointment of an agent for the Osage Indians west of the State of Missouri and Territory of Arkansas, and for other purposes, approved May eighteen, eighteen hundred and twenty-four; the third, fourth, and fifth sections of "An act to enable the President to hold treaties with certain Indian tribes, and for other purposes," approved May twenty-five, eighteen hundred and twenty-four; the second section of the "Act to aid certain Indians of the Creek nation in their removal to the west of the Mississippi, approved May twenty, eighteen hundred and twenty-six; and act to authorize the appointment of a sub-agent to the Winnebago Indians on Rock river, approved February twenty-five, eighteen hundred and thirty-one: *Provided, however,* That such repeal shall not effect [affect] any rights acquired, or punishments, penalties, or forfeitures incurred under either of the acts or parts of acts, nor impair or affect the intercourse act of eighteen hundred and two, so far as the same relates to or concerns Indian tribes residing east of the Mississippi: *And provided, also,* That such repeal shall not be construed to revive any acts or parts of acts repealed by either of the acts or sections herein described.

Sec. 30. *And be it further enacted,* That, until a Western Territory shall be established, the two agents for the Western Territory, as provided in the act for the organization of the Indian department, this day approved by the President, shall execute the duties of agents for such tribes as may be directed by the President of the United States. And it shall be competent for the President to assign to one of the said agents, in addition to his proper duties, the duties of superintendent for such district of country or for such tribes as the President may think fit. And the powers of the superintendent at St. Louis over such district or tribes as may be assigned to such acting superintendent shall cease: *Provided,* That no additional compensation shall be allowed for such services.

Approved, June 30, 1834.

AN ACT to provide for the organization of the Department of Indian Affairs.

Be it enacted, &c., That the duties of the Governors of the Territories of Florida and Arkansas, as Superintendents of Indian Affairs, shall hereafter cease, and the duties of the Governor of the Territory of Michigan, as Superintendent of Indian Affairs, shall cease from and after the establishment of a new Territory, embracing the country west of Lake Michigan, should such a Territory be established. And while the Governor of the said Territory of Michigan continues to act as Superintendent of Indian Affairs, he shall receive therefor the annual sum of one thousand dollars, in full of all allowances, emoluments, or compensation for services in said capacity.

Sec. 2. *And be it further enacted,* That there shall be a superintendency of Indian affairs for all the Indian country not within the bounds of any State or Territory west of the Mississippi river, the superintendent of which shall reside at St. Louis, and shall annually receive a salary of fifteen hundred dollars.

Sec. 3. *And be it further enacted,* That Superintendents of Indian Affairs shall, within their several superintendencies, exercise a general supervision and control over the official conduct and accounts of all officers and persons employed by the Government in the Indian department, under such regulations as shall be established by the President of the United States; and may suspend such officers and persons from their office or employments for reasons forthwith to be communicated to the Secretary of War.

Sec. 4. *And be it further enacted,* That the following Indian agents shall be appointed by the President of the United States, by and with the advice and consent of the Senate, who shall hold their offices for the term of four years, and who shall give bond, with two or more securities, in the penal sum of two thousand dollars, for the faithful execution of the same, and shall receive the annual compensation of fifteen hundred dollars.

Two agents for the Western Territory.

An agent for the Chickasaws.

An agent for the Eastern Cherokees.

An agent for the Florida Indians.

An agent for the Indians in the State of Indiana.

An agent at Chicago.

An agent at Rock island.

An agent at Prairie du Chien.

An agent for Michilimackinac and the Sault Sainte Marie.

An agent for the Saint Peter's.

An agent for the Upper Missouri.

And the following agencies shall be discontinued at the periods herein mentioned, that is to say:

The Florida agency, from and after the thirty-first day of December next.

The Cherokee agency, from and after the thirty-first day of December next.

The Indiana agency, from and after the thirty-first day of December, eighteen hundred and thirty-six.

The Chicago agency, from and after the thirty-first day of December next.

The Rock island agency, from and after the thirty-first day of December, eighteen hundred and thirty six.

And all other agencies, not provided for in this act, from and after the passing thereof: *Provided,* That the limitation of the said agencies shall not be construed to prevent the President of the United States from discontinuing the same at an earlier period. And the President shall be, and he is hereby, authorized, whenever he may judge it expedient, to discontinue any Indian agency, or to transfer the same, from the place or tribe designated by law, to such other place or tribe as the public service may require. And every Indian agent shall reside and keep his agency within or near the territory of the tribe for which he may be agent, and at such place as the President may designate, and shall not depart from the limits of his agency without permission. And it shall be competent for the President to require any military officer of the United States to execute the duties of Indian agent.

Sec. 5. *And be it further enacted,* That a competent number of sub-agents shall be appointed by the President, with an annual salary of seven hundred and fifty dollars each, to be employed and to reside wherever the President may direct, and who shall give bonds, with one or more sureties, in the penal sum of one thousand dollars, for the faithful execution of the same. But no sub-agent shall be appointed who shall reside within the limits of any agency where there is an agent appointed.

Sec. 6. *And be it further enacted,* That nothing herein contained shall be construed to require the reappointment of persons now in office, until the expiration of their present term of service; but the commissions of all Indian agents and sub-agents, now in office, shall expire on the fourth day of March next, unless sooner terminated.

Sec. 7. *And be it further enacted,* That the limits of each agency and sub-agency shall be established by the

Secretary of War, either by tribes or by geographical boundaries. And it shall be the general duty of Indian agents and sub-agents to manage and superintend the intercourse with the Indians within their respective agencies agreeably to law; to obey all legal instructions given to them by the Secretary of War, the Commissioner of Indian Affairs, or the Superintendent of Indian Affairs; and to carry into effect such regulations as may be prescribed by the President.

Sec. 8. *And be it further enacted,* That the President of the United States may, from time to time, require additional security, and in large amounts, from all persons charged or trusted, under the laws of the United States, with the disbursement or application of money, goods, or effects of any kind, on account of the Indian department.

Sec. 9. *And be it further enacted,* That an interpreter shall be allowed to each agency, who shall receive an annual salary of three hundred dollars: *Provided,* That where there are different tribes in the same agency, speaking different languages, one interpreter may be allowed, at the discretion of the Secretary of War, for each of the said tribes. Interpreters shall be nominated, by the proper agents, to the War Department for approval, and may be suspended, by the agent, from pay and duty, and the circumstances reported to the War Department for final action; and blacksmiths shall, in like manner, be employed wherever required by treaty stipulations, and such blacksmiths shall receive an annual compensation of four hundred and eighty dollars; and if they furnish their shop and tools, an additional sum of one hundred and twenty dollars; and their assistants shall be allowed an annual compensation of two hundred and forty dollars. And wherever farmers, mechanics, or teachers are required by treaty stipulations to be provided, they shall be employed under the direction of the War Department, and shall receive an annual compensation of not less than four hundred and eighty dollars, nor more than six hundred dollars. And in all cases of the appointments of interpreters or other persons employed for the benefit of the Indians, a preference shall be given to persons of Indian descent, if such can be found, who are properly qualified for the execution of the duties. And where any of the tribes are, in the opinion of the Secretary of War, competent to direct the employment of their blacksmiths, mechanics, teachers, farmers, or other persons engaged for them, the direction of such persons may be given to the proper authority of the tribe.

Sec. 10. *And be it further enacted,* That the compensation prescribed by this act shall be in full of all emoluments or allowances whatsoever: *Provided, however,* That, where necessary, a reasonable allowance or provision may be made for offices and office contingencies: *And provided, also,* That where persons are required, in the performance of the duties under this act, to travel from one place to another, their actual expenses, or a reasonable sum in leiu thereof, may be allowed them: *And provided, also,* That no allowance shall be made to any person for travel or expenses in coming to the seat of Government to settle his accounts, unless thereto required by the Secretary of War: *And provided, also,* That no person shall hold more than one office at the same time under this act, nor shall any agent, sub-agent, interpreter, or person employed under this act, receive his salary while absent from his agency or employment without leave of the superintendent or Secretary of War: *Provided,* Such absence shall at no one time exceed sixty days.

Sec. 11. *And be it further enacted,* That the payment of all annuities or other sums stipulated by treaty to be made to any Indian tribe, shall be made to the chiefs of such tribe, or to such person as said tribe shall appoint; or if any tribe shall appropriate their annuities to the purpose of education, or to any other specific use, then to such person or persons as such tribe shall designate.

Sec. 12. *And be it further enacted,* That it shall be lawful for the President of the United States, at the request of any Indian tribe to which any annuity shall be payable in money, to cause the same to be paid in goods, purchased as provided in the next section of this act.

Sec. 13. *And be it further enacted,* That all merchandise required by any Indian treaty for the Indians, payable after making of such treaty, shall be purchased under the direction of the Secretary at War, upon proposals to be received, to be based on notice previously to be given; and all merchandise required at the making of any Indian treaty shall be purchased under the order of the commissioners, by such person as they shall appoint, or by such person as shall be designated by the President for that purpose. And all other purchases on account of the Indians, and all payments to them of money or goods, shall be made by such person as the President shall designate for that purpose. And the superintendent, agent, or sub-agent, together with such military officer as the President may direct, shall be present, and certify to the delivery of all goods and money required to be paid or delivered to the Indians. And the duties required by any section of this act, of military officers, shall be performed without any other compensation than their actual travelling expenses; and all persons whatsoever, charged or trusted with the disbursement or application of money, goods, or effects of any kind, for the benefit of the Indians, shall settle their accounts, annually, at the War Department, on the first day of October; and copies of the same shall be laid, annually, before Congress, at the commencement of the ensuing session, by the proper accounting officers; together with a list of the names of all persons to whom money, goods, or effects, had been delivered within said year, for the benefit of the Indians, specifying the amount and object for which it was intended, and showing who are delinquents, if any, in forwarding their accounts according to the provisions of this act; and, also, a list of the names of all persons appointed or employed under this act, with the dates of their appointment or employment, and the salary and pay of each.

Sec. 14. *And be it further enacted,* That no person employed in the Indian department shall have any interest or concern in any trade with the Indians, except for and on account of the United States; and any person offending herein shall forfeit the sum of five thousand dollars; and upon satisfactory information of such offence being laid before the President of the United States, it shall become his duty to remove such person from the office or situation he may hold.

Sec. 15. *And be it further enacted,* That the President shall be, and he is hereby, authorized to cause any of the friendly Indians west of the Mississippi river, and north of the boundary of the Western Territory, and the region upon Lake Superior and the head of the Mississippi, to be furnished with useful domestic animals and implements of husbandry, and with goods, as he shall think proper: *Provided,* That the whole amount of such presents shall not exceed the sum of five thousand dollars.

Sec. 16. *And be it further enacted,* That the President be, and he is hereby, authorized to cause such rations as he shall judge proper, and as can be spared from the army provisions without injury to the service, to be issued, under such regulations as he shall think fit to establish, to Indians who may visit the military posts or agencies of the United States on the frontiers, or in their respective nations, and a special account of these issues shall be kept and rendered.

Sec. 17. *And be it further enacted,* That the President of the United States shall be, and he is hereby, authorized to prescribe such rules and regulations as he may think fit for carrying into effect the various provisions of this act, and of any other act relating to Indian affairs, and

for the settlement of the accounts of the Indian department.

Sec. 18. *And be it further enacted*, That all acts, or parts of acts, contrary to the provisions of this act, shall be, and the same are hereby, repealed.

Approved, June 30, 1834.

AN ACT in addition to the "act more effectually to provide for the punishment of certain crimes against the United States, and for other purposes," approved March third, eighteen hundred and twenty-five.

Be it enacted, &c., That whenever any criminal, convicted of any offence against the United States, shall be imprisoned, in pursuance of such conviction and of the sentence thereupon, in the prison or penitentiary of any State or Territory, such criminal shall in all respects be subject to the same discipline and treatment as convicts sentenced by the courts of the State or Territory in which such prison or penitentiary is situated; and, while so confined therein, shall also be exclusively under the control of the officers having charge of the same, under the laws of the said State or Territory.

Approved, June 30, 1834.

AN ACT increasing the salaries of the judges of the United States for the Territories of Michigan, Arkansas, and Florida.

Be it enacted, &c., That there shall be allowed and paid, annually, to each of the judges of the United States for the Territories of Michigan, Arkansas, and Florida, the sum of three hundred dollars, in addition to the salaries now allowed by law to the said judges, respectively.

Sec. 2. *And be it further enacted*, That this act shall take effect from the first day of January, eighteen hundred and thirty-four, and that the several sums authorized to be paid shall be paid out of any money in the Treasury not otherwise appropriated.

Sec. 3. *And be it further enacted*, That the increased salary allowed by this act shall only be paid to such judges in the Territories of Florida and Arkansas as are not now allowed the extra compensation under the act of May, one thousand eight hundred and twenty-eight, providing for the adjudication of land claims, and shall take effect as to the remainder when the extra pay aforesaid shall no longer be paid.

Approved, June 30, 1834.

AN ACT making compensation for certain diplomatic services, and for other purposes.

Be it enacted, &c., That there be allowed and paid to W. H. D. C. Wright, to supply the deficiency of a former appropriation in the payment of the balance found due to him in the adjustment of his accounts, and for his diplomatic services at the court of Brazil, after the death of Mr. Tudor, and before the arrival of Mr. Brown, the sum of five thousand and thirty-seven dollars.

Also, to the State of Maine, to reimburse the expense of supporting certain American citizens in prison at Fredericton, in New Brunswick, seven hundred and seventy-five dollars.

Also, to John Adams Smith, Nathaniel Niles, and J. C. Pickett, Secretaries of Legation, a compensation for their services as charge d'affaires, at the rate of four thousand five hundred dollars per annum, during the time that they were actually left in charge of the affairs of the legations to which they were attached, deducting therefrom the amount already paid to them as Secretaries of Legation; the aforesaid sums to be paid out of any money in the Treasury not otherwise appropriated.

To James C. Pickett, Secretary of Legation left in charge of the affairs of the United States at Bogota on the termination of the mission of Mr. Moore, one quarter's salary, for the expense of his return to the United States, five hundred dollars.

Approved, June 30, 1834.

AN ACT repealing certain acts of the Legislative Council of the Territory of Florida.

Be it enacted, &c., That all such acts or parts of acts passed by the Legislative Council of the Territory of Florida, as may impose a higher or greater tax on the slaves or other property of non-resident citizens than is imposed on the slaves or other property of resident citizens of said Territory, be, and the same are hereby, repealed, and declared null and void.

Sec. 2. *And be it further enacted*, That if any person shall attempt to enforce any of the acts or parts of acts passed by the Legislative Council of the Territory of Florida, as aforesaid, by demanding or receiving any tax, imposition, or assessment, authorized or prescribed thereby, such person shall, on conviction thereof, be punished by fine not exceeding two hundred dollars, or by imprisonment not exceeding six months, or either or both of said punishments.

Sec. 3. *And be it further enacted*, That the county of Leon, in the Territory of Florida, shall be authorized to elect two additional members to the Legislative Council on the first Monday in September next, and it shall be lawful for the Legislative Council to designate by law the election districts, in such manner as to ensure an equality of representation to each.

Approved, June 30, 1834.

AN ACT to relinquish the reversionary interest of the United States in a certain Indian reservation lying between the rivers Mississippi and Desmoins.

Be it enacted, &c., That all the right, title, and interest, which may accrue or revert to the United States, to the reservation of land lying between the rivers Desmoins and Mississippi, which was reserved for the use of the half-breeds belonging to the Sacs and Fox nations, now used by them, or some of them, under a treaty made and concluded between the United States and the Sacs and Fox tribes or nations of Indians, at Washington, on the fourth day of August, in the year one thousand eight hundred and twenty-four, be, and the same are hereby, relinquished and vested in the said half-breeds of the Sacs and Fox tribes or nations of Indians, who, at the passage of this act, are, under the reservation in the said treaty, entitled, by the Indian title, to the same; with full power and authority to transfer their portions thereof, by sale, devise, or descent, according to the laws of the State of Missouri.

Approved, June 30, 1834.

AN ACT authorizing the Governors of the several States to transmit, by mail, certain books and documents.

Be it enacted, &c., That it shall be lawful for the Governors of the several States to transmit by mail, free of postage, all laws and reports, whether bound or unbound, and all records and documents of their respective States, which may be directed by the Legislature of the several States to be transmitted to the Executives of other States; and the Governor of the State transmitting the same shall, in addition to his frank, endorse the kind of book or document enclosed, and direct the same to the Governor of the State to which he may be sent.

Approved, June 30, 1834.

AN ACT authorizing the payment of bounty on certain fishing vessels lost at sea.

Be it enacted, &c., That the collector of the port of

Boston and Charlestown be, and he is hereby, authorized to pay to the late owners and crew of the said Two Brothers, to be distributed according to law, the same sum of money that said vessel would have been entitled to receive, as a bounty or drawback, if she had in her last voyage, in which she was lost, complied with all the requirements of law necessary to secure such bounty; the said vessel being of the burden of one hundred and thirteen and twenty-nine ninety-fifths tons.

Sec. 2. *And be it further enacted,* That the collector of the port of Frenchman's Bay be, and he hereby is, authorized to pay to Daniel Kiff, the late owner, and to the crew of the fishing boat Juno, to be distributed according to law, the same sum said vessel would have been entitled to, as a bounty or drawback, if she had not perished by the perils of the sea in her last voyage, and had arrived in port, having complied with all the requirements of law necessary to secure such bounty or drawback; the said boat being of the burden of fourteen and seventy-nine ninety-fifths tons.

Sec. 3. *And be it further enacted,* That the collector of the customs for the district of Barnstable, State of Massachusetts, is hereby authorized to pay to the heirs at law of the owners and crew of the schooner Emeline, which was lost at sea, together with the whole crew, before she had accomplished the time required by law to entitle her to the bounty or drawback she would have been entitled to have received had she safely arrived in port after having accomplished the full time required by law.

Approved, June 30, 1834.

AN ACT concerning tonnage duty on Spanish vessels.

Be it enacted, &c., That, from and after the first day of March next, Spanish vessels coming from the island of Cuba, or Porto Rico, either directly or after touching at any port or place, shall pay in the ports of the United States such further tonnage duty, in addition to the tonnage duty which may be payable under any other law, as shall be equivalent to the amount of discriminating duty that would have been imposed on the cargoes imported in the said vessels, respectively, if the same had been exported from the port of Havana in American bottoms.

Sec. 2. *And be it further enacted,* That, before any such vessel shall be permitted to clear out or depart from a port of the United States with a cargo which shall be directly or indirectly destined to either of the said islands, the said vessel shall pay such further tonnage duty as shall be equivalent to the amount of discriminating duty that would be payable for the time being upon the cargo, if imported into the port of Havana in an American bottom.

Sec. 3. *And be it further enacted,* That no Spanish vessel shall be allowed to clear out or depart from a port of the United States with any goods, wares, or merchandise, except upon a destination to some port or place in the island of Cuba or Porto Rico, without giving bond, with approved security, in double the value of the vessel and cargo, that the said cargo, or any part thereof, shall not be landed in either of the said islands; which bond shall be cancelled on producing of certificate from an American consul that the said cargo has been landed elsewhere, *bona fide,* and without intention to reship it for a port in one of the said islands.

Sec. 4. *And be it further enacted,* That the Secretary of the Treasury be, and he is hereby, authorized, from time to time, to estimate the said additional tonnage duty, and to give directions to the officers of the customs of the United States for the collection of such duties, so as to conform the same to any variation which may take place in the discriminating duties levied on the cargoes of American vessels in the said port of Havana.

Sec. 5. *And be it further enacted,* That, whenever the President of the United States shall be satisfied that the discriminating duties in favor of the Spanish bottoms levied upon cargoes of American vessels in the ports of Cuba and Porto Rico have been abolished, or whenever, in his opinion, a satisfactory arrangement upon the subject of the said duties shall have been made between the United States and Spain, the President is hereby authorized to declare the same by proclamation, and thereupon this act shall cease to have any further force or effect.

Approved, June 30, 1834.

AN ACT to authorize the President of the United States to direct transfers of appropriations in the naval service, under certain circumstances.

Be it enacted, &c., That, upon the application of the Secretary of the Navy, the President of the United States shall have authority, whenever, in his opinion, the contingencies of the public service may require it, at any period between the close of the year and the passage of the new naval appropriation bills, to direct that a part of the money appropriated for a particular branch of the naval service the former year, to be applied to another branch of the said service; in which case a special account of the moneys thus transferred, and of their application, shall be laid before Congress previous to its adjournment.

Approved, June 30, 1834.

AN ACT to authorize the Secretary of the Treasury to grant a right of way, in a certain case, in the city of New York.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized to grant unto the President, Directors, and Company of the Bank of the United States, and their successors and assigns, a right of way and passage, over and upon the lands and premises, purchased by the United States for the site of a custom-house, in the port of New York, and upon such terms and conditions and with such reservations and restrictions as in his judgment the public interests may require, for the purpose of carrying into effect the act entitled "An act making appropriations for a custom-house in the city of New York, and for other purposes," passed the thirteenth day of July, in the year one thousand eight hundred and thirty-two.

Approved, June 30, [1834.]

AN ACT for changing the term of the District Court for the Western District of Louisiana.

Be it enacted, &c., That the term of the District Court of the United States for the Western District of Louisiana shall hereafter commence and be holden on the third Monday of March, in each and every year, instead of the time heretofore appointed by law, and the court shall then be holden under the powers, duties, rules, and regulations heretofore prescribed by law.

Sec. 2. *And be it further enacted,* That all process, pleadings, motions, suits, and business, heretofore begun, pending, and undetermined, shall stand continued, valid, and adjourned over to the said next term of said court to be holden on the said third Monday in March next, then to be proceeded in, as if regalarly returnable to, notified, or set, for that term.

Approved, June 30, 1834.

AN ACT to prohibit the corporations of Washington, Georgetown, and Alexandria, in the District of Columbia, from issuing promissory notes or bills of any denomination less than ten dollars, after the period therein mentioned, and for the gradual withdrawal from circulation of all such notes or bills.

Be it enacted, &c., That it shall not be lawful for the corporations of Washington, Georgetown, or Alexandria,

in the District of Columbia, or either of them, after the first day of March, eighteen hundred and thirty-nine, to issue any promissory note or bill of a less denomination than ten dollars: *Provided*, That it shall not be lawful for either of the corporations aforesaid to make or issue any new promissory note or bill, after the passage of this act, of a less denomination than ten dollars.

Sec. 2. *And be it further enacted*, That each and all the corporations aforesaid shall annually withdraw from circulation and destroy promissory notes or bills respectively issued by either of them of a less denomination than ten dollars, so as to effect a reduction one-fifth per annum of the amount which each corporation may have in circulation of the said notes or bills; and render an account at each session to Congress, showing the amount withdrawn and extinguished as aforesaid, and the balance still in circulation.

Sec. 3. *And be it further enacted*, That, on failure of either or all of the corporations aforesaid to comply with the requirements of the second section of this act, it shall not thereafter be lawful for the corporation or corporations, so failing, to issue any promissory note or bill of a less denomination than ten dollars.

Approved, June 30, 1834.

AN ACT for the relief of sundry citizens of the United States who have lost property by the depredations of certain Indian tribes.

Whereas the claims of sundry citizens of the United States for Indian depredations committed by Indians, were, by an act of Congress passed the third day of May, one thousand eight hundred and thirty, referred to the Third Auditor of the Treasury for examination and adjustment; and as it fully appears, from the report of that officer, that he was not in possession of the necessary information by which to govern him in an equitable adjustment of said claims: Therefore,

Be it enacted, &c., That the claims above alluded to, which are contained in the report of the Third Auditor, made twenty-third February, one thousand eight hundred and thirty-one, and the claim of Joseph Bogy, for depredations committed on his property by the Choctaw Indians, be, and the same is hereby, submitted to the Secretary of War for examination and final adjustment, who is hereby directed to be governed in his decisions by the provisions of the fourteenth section of the act of March thirtieth, eighteen hundred and two, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers;" and by treaty stipulations with any of the Indian tribes mentioned, applicable to any of the cases: *Provided*, That no limitation of time for presenting claims under that act shall bar any of the claims herein mentioned: *And provided, further*, That if it shall appear, to the satisfaction of the Secretary of War, that any of the depredations aforesaid were committed by Indians who had been removed by the United States from their own country, and located within the limits of the then Territory of Missouri, upon lands to which the Indian title had been extinguished, and in the vicinity of said claimants; in all such cases the depredations so committed shall be deemed sufficient to establish the claim of the individual or individuals sustaining such loss for the value of property so plundered or destroyed.

Sec. 2. *And be it further enacted*, That the Secretary of War shall cause to be paid to each individual whose claim shall be established under the provisions of this act, the amount thereof, out of any money in the Treasury not otherwise appropriated.

Approved, June 30, 1834.

AN ACT granting land to certain exiles from Poland.

Be it enacted, &c., That there be, and is hereby, granted to Lewis Banezakiewitz and his associates, being two hundred and thirty-five exiles from Poland, transported to the United States by the orders of the Emperor of Austria, thirty-six sections of land, to be selected by them, under the direction of the Secretary of the Treasury, in any three adjacent towships of the public lands which have been or may hereafter be surveyed, situated within the limits of the State of Illinois or the Territory of Michigan.

Sec. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to obtain an authenticated list of the names of the aforesaid two hundred and thirty-five Polish exiles, und cause the same to be filed and recorded in the office of the Commissioner of the General Land Office.

Sec. 3. *And be it further enacted*, That immediately after the said thirty-six sections of land shall be surveyed and located in the manner prescribed in the first section of this act, it shall be the duty of the Secretary of the Treasury to cause the said thirty-six sections to be divided into equal parts among the said two hundred and thirty-five Poles, by lot, under such regulations as the said Secretary may prescribe.

Sec. 4. *And be it further enacted*, That it shall be lawful for each and every of the said grantees to enter upon and take possession of the respective lots of land assigned to them and each of them; and, after the expiration of ten years, the said grantees, respectively, shall be entitled to a patent for the lot of land assigned to them as aforesaid: *Provided*, That the said grantees shall, during the said term of ten years, without intermission, actually inhabit and cultivate the said township of land in the ratio of one settlement for every five hundred acres thereof; and on due proof of such habitation and cultivation to the Secretary of the Treasury, and of the payment into the proper land office of the minimum price per acre, at the time of such payment, within the said term of ten years, patents shall be granted as aforesaid, and not otherwise.

Approved, June 30, 1834.

RESOLUTION providing for the distribution of the Diplomatic Correspondence of the United States, from the peace of seventeen hundred and eighty-three, to the fourth of March, seventeen hundred and eighty-nine.

Resolved, &c., That the copies of the "Selection of the Diplomatic Correspondence of the United States between the peace of seventeen hundred and eighty-three, and the fourth of March, seventeen hundred and eighty-nine," published in virtue of an act of the fifth of May, eighteen hundred and thirty-two, in continuation of the Diplomatic Correspondence of the Revolution, be distributed and disposed of, under the direction of the Joint Library Committee, in manner following, viz:

To each person who received a copy of the Diplomatic Correspondence of the Revolution, and who shall apply to the Clerk of the House of Representatives for the continuation of the same, one copy;

To the library of each institution to which a copy of the Diplomatic Correspondence of the Revolution was sent, one copy;

To Jared Sparks, editor of the Diplomatic Correspondence of the Revolution, one copy;

To Edward Livingston, under whose direction, as Secretary of State, the selection aforesaid was made, one copy.

Sec. 2. *And be it further resolved*, That twenty-five copies of the work aforesaid, and of any other work or works printed by order or at the expense of the United States, shall be placed at the disposition of the Joint Library Committee, to be by them disposed of, in return for donations to the Library of Congress.

Approved, June 19, 1834.

RESOLUTION for distributing returns of the last census.

Resolved, &c., That the Librarian of Congress be authorized to deliver to each member of the present Congress, who was not a member of the last Congress, two copies of the return of the last census of the inhabitants of the United States, and that it may be lawful for the said members to tranmit the said copies, free of postage, by mail.

Approved, June 19, 1834.

RESOLUTION giving the right of way through the property of the United States at Harper's Ferry, to the Winchester and Potomac Railroad Company.

Resolved, &c., That the President of the United States of America be, and he is hereby, authorized to convey to the Winchester and Potomac Railroad Company, free of charge, the right of way through the property held by the United States at Harper's Ferry, (and at present not improved,) if in his opinion it should not be inconsistent with the public service; and, also, on the same terms, so much of the ground between the arsenal and the Shenandoah river, and near its junction with the Potomac, as may be deemed consistent with the public interest; to be used for the benefit of the said company in the deposite and accommodation of the trade of said Winchester and Potomac Railroad Company only; and for no other purpose whatever. *Provided, nevertheless*, That the said railroad shall be so located, in the judgment of two or more skilful engineers of the army of the United States, who may deputed by the President of the United States to make such location, as not to impede or injure, in any manner, the future improvement of the navigation of the river Shenandoah, by a lock and dam navigation, or by extending a canal along the left bank thereof to the river Potomac, or to the canal now constructed along the left bank of the said river.

Approved, June 25, 1834.

RESOLUTION manifesting the sensibility of the two House of Congress and of the nation, on the occasion of the decease of General Lafayette.

Resolved, &c., That the two Houses of Congress have received, with the profoundest sensibility, intelligence of the death of General Lafayette, the friend of the United States, the friend of Washington, and the friend of liberty.

2. *And be it further resolved*, That the sacrifices and efforts of this illustrious person, in the cause of our country during her struggle for independence, and the affectionate interest which he has at all times manifested for the success of her political institutions, claim from the Government and the people of the United States, an expression of condolence for his loss, veneration for his virtues, and gratitude for his services.

3. *And be it further resolved*, That the President of the United States be requested to address, together with a copy of the above resolutions, a letter to George Washington Lafayette, and the other members of the family, assuring them of the condolence of this whole nation in their irreparable bereavement.

4. *And be it further resolved*, That the members of the two Houses of Congress will wear a badge of mourning for thirty days, and that it be recommended to the people of the United States to wear a similiar badge for the same period.

5. *And be it further resolved*, That the Halls of the Houses be dressed in mourning for the residue of the session.

6. *And be it further resolved*, That John Quincy Adams be requested to deliver an oration on the life and character of General Lafayette, before the two Houses of Congress at the next session.

Approved, June 26, 1834.

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